

NINETY-NINTH DAY, APRIL 16, 2007

2007 REGULAR SESSION

NINETY-NINTH DAY

MORNING SESSION

Senate Chamber, Olympia, Monday, April 16, 2007

The Senate was called to order at 10:00 a.m. by President Owen. The Secretary called the roll and announced to the President that all Senators were present with the exception of Senators Benton and Brown.

The Sergeant at Arms Color Guard consisting of Pages Joshua Lamb and Ryan Roberts, presented the Colors. Father James Johnson of our Lady of Fatima Parish of Seattle offered the prayer.

MOTION

On motion of Senator Eide, the reading of the Journal of the previous day was dispensed with and it was approved.

MOTION

On motion of Senator Eide, the Senate advanced to the eighth order of business.

MOTION

Senator Swecker moved adoption of the following resolution:

SENATE RESOLUTION
8639

By Senators Swecker, Morton, Kauffman, Roach, Marr, Stevens, Berkey, Shin, Jacobsen, Benton, Rasmussen, Honeyford, Haugen, Rockefeller, Eide, Sheldon, McCaslin, Kilmer, Schoesler, Delvin, Hobbs, Tom, Brandland, Parlette, Hatfield, Brown, Regala, Murray, Pflug, Clements, Spanel, Hewitt, Fraser and Kohl-Welles

WHEREAS, Lieutenant Colonel Bruce P. Crandall served in the United States Army with distinction, demonstrating courage and heroism on the battlefield in Vietnam; and

WHEREAS, On November 14, 1965, the first day of the Battle of LZ X-Ray, then-Major Crandall flew fourteen missions into Landing Zone X-Ray in Vietnam's Ia Drang Valley under intense enemy fire, evacuating more than seventy wounded soldiers while leading a flight of two helicopters; and

WHEREAS, Major Crandall's bravery in the Battle of LZ X-Ray and his determination to put the lives and safety of wounded soldiers ahead of his own enhanced the morale and fighting spirit of fellow pilots and soldiers; and

WHEREAS, In January 1966, during "Operation Masher," Major Crandall rescued twelve wounded soldiers under intense enemy fire and with only a spot flashlight for guidance; and

WHEREAS, Major Crandall received the Aviation and Space Writers Helicopter Heroism Award for his courage in "Operation Masher"; and

WHEREAS, Major Crandall later served with distinction in his second tour in Vietnam, during which time his helicopter was downed while attempting another rescue, landing him in the hospital for five months due to severe injuries; and

WHEREAS, Lieutenant Colonel Crandall retired from the Army in 1977, was inducted into the Army Aviation Hall of Fame in 2004, and also inducted into the Air Force's Gathering of Eagles in 1996; and

WHEREAS, Lieutenant Colonel Crandall was awarded the Medal of Honor in Washington, D.C. on February 26, 2007;

NOW, THEREFORE, BE IT RESOLVED, That the Washington State Senate officially recognize Lieutenant Colonel Bruce P. Crandall for his heroic service in the defense of the United States of America and for his steadfast commitment to the lives and fighting spirit of his fellow pilots and soldiers.

Senators Swecker and Kilmer spoke in favor of adoption of the resolution.

The President declared the question before the Senate to be the adoption of Senate Resolution No. 8639.

The motion by Senator Swecker carried and the resolution was adopted by voice vote.

INTRODUCTION OF SPECIAL GUESTS

The President welcomed and introduced Lt. Colonel Bruce Crandall and wife Arlene who were seated at the rostrum.

With permission of the Senate, business was suspended to allow Lt. Colonel Bruce Crandall to address the Senate.

REMARKS BY LT. COLONEL BRUCE CRANDALL

Lt. Colonel Crandall: "Thank you. As a commander I have a great responsibility to my troops and my co-aircraft was from Boise, Idaho, Ed Freeman, and he received the Medal of Honor also. I am tremendously proud of him but both of us had one thing in common and that's we had wives and families back home that supported us and were with us for all the time that we were in the service. They had to put up with our continuous transfers away from home and they carried the ball. They're the real strong ones. We owe them the opportunities that we had. My wife, we've been married for fifty-one years and sixteen days and she has been the strength for all of those years. She's from Kent, Washington. She raised three boys and as she tells me frequently she really raised four. I wanted to recognize her because she's the one that really backed me the full time I was in the service. Thank you very much for the honor. It's a great honor and I went to high school over here next to the courthouse in 1951 and I was on top of this building because they took the cupola off and they put a ramp up the outside and that was too much for a high school kid to ignore. Our high school was right next to the courthouse which had a very calming influence on us."

INTRODUCTION OF SPECIAL GUESTS

The President welcomed and introduced members of all branches of the Armed Forces who present seated in the gallery.

MOTION

On motion of Senator Eide, the Senate reverted to the fourth order of business.

MESSAGE FROM THE HOUSE

April 5, 2007

MR. PRESIDENT:

The House has passed SUBSTITUTE SENATE BILL NO. 5002, with the following amendment: 5002-S AMH HE H3266.1

On page 3, after line 8, insert the following:
"(6) Required waivers of all tuition and fees under subsection (4) of this section shall not affect permissive waivers of tuition and fees under subsection (3) of this section."

Remember the remaining subsections consecutively and correct any internal references accordingly. and the same are herewith transmitted.

RICHARD NAFZIGER, Chief Clerk

MOTION

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Senator Shin moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5002.

Senator Shin spoke in favor of the motion.

MOTION

On motion of Senator Brandland, Senator Benton was excused.

The President declared the question before the Senate to be the motion by Senator Shin that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5002.

The motion by Senator Shin carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 5002 by voice vote.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5002, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5002, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 1; Excused, 1.

Voting yea: Senators Berkey, Brandland, Carrell, Clements, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, Morton, Murray, Oemig, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Tom, Weinstein and Zarelli - 47

Absent: Senator Brown - 1

Excused: Senator Benton - 1

SUBSTITUTE SENATE BILL NO. 5002, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

April 3, 2007

MR. PRESIDENT:

The House has passed SENATE BILL NO. 5014, with the following amendment: 5014 AMH APP H3152.1

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 41.45.030 and 2001 2nd sp.s. c 11 s 5 are each amended to read as follows:

(1) Beginning ~~((April 1, 2004))~~ September 1, 2007, and every ~~((four))~~ two years thereafter, the state actuary shall submit to the council information regarding the experience and financial condition of each state retirement system, and make recommendations regarding the long-term economic assumptions set forth in RCW 41.45.035. The council shall review this and such other information as it may require.

(2) By ~~((May 31, 2004))~~ October 31, 2007, and every ~~((four))~~ two years thereafter, the council, by affirmative vote of four councilmembers, may adopt changes to the long-term economic assumptions established in RCW 41.45.035. Any changes adopted by the council shall be subject to revision by the legislature.

The council shall consult with the economic and revenue forecast supervisor and the executive director of the state investment board, and shall consider long-term historical averages, in reviewing possible changes to the economic assumptions.

(3) The assumptions and the asset value smoothing technique established in RCW 41.45.035, as modified in the

future by the council or legislature, shall be used by the state actuary in conducting all actuarial studies of the state retirement systems, including actuarial fiscal notes under RCW 44.44.040. The assumptions shall also be used for the administration of benefits under the retirement plans listed in RCW 41.45.020, pursuant to timelines and conditions established by department rules.

Sec. 2. RCW 41.45.060 and 2005 c 370 s 2 are each amended to read as follows:

(1) The state actuary shall provide preliminary actuarial valuation results based on the economic assumptions and asset value smoothing technique included in RCW 41.45.035 or adopted ~~((by the council))~~ under RCW 41.45.030 or 41.45.035.

(2) Not later than ~~((September 30, 2002))~~ July 31, 2008, and every two years thereafter, consistent with the economic assumptions and asset value smoothing technique included in RCW 41.45.035 or adopted under RCW 41.45.030 or 41.45.035, the council shall adopt and may make changes to:

(a) A basic state contribution rate for the law enforcement officers' and fire fighters' retirement system plan 1;

(b) Basic employer contribution rates for the public employees' retirement system, the teachers' retirement system, and the Washington state patrol retirement system ~~((to be used in the ensuing biennial period));~~ and

(c) ~~((A*))~~ Basic employer contribution rates for the school employees' retirement system and the public safety employees' retirement system for funding both those systems and the public employees' retirement system plan 1.

The council may adopt annual rate changes for any plan for any rate-setting period. The contribution rates adopted by the council shall be subject to revision by the legislature.

(3) The employer and state contribution rates adopted by the council shall be the level percentages of pay that are needed:

(a) To fully amortize the total costs of the public employees' retirement system plan 1, the teachers' retirement system plan 1, and the law enforcement officers' and fire fighters' retirement system plan 1 not later than June 30, 2024; and

(b) To fully fund the public employees' retirement system plans 2 and 3, the teachers' retirement system plans 2 and 3, the public safety employees' retirement system plan 2, and the school employees' retirement system plans 2 and 3 in accordance with RCW 41.45.061, 41.45.067, and this section.

(4) The aggregate actuarial cost method shall be used to calculate a combined plan 2 and 3 employer contribution rate and a Washington state patrol retirement system contribution rate.

(5) The council shall immediately notify the directors of the office of financial management and department of retirement systems of the state and employer contribution rates adopted. The rates shall be effective for the ensuing biennial period, subject to any legislative modifications.

(6) The director shall collect those rates adopted by the council. The rates established in RCW 41.45.062, or by the council, shall be subject to revision by the legislature.

(7) The state actuary shall prepare final actuarial valuation results based on the economic assumptions, asset value smoothing technique, and contribution rates included in or adopted under RCW 41.45.030, 41.45.035, and this section.

Sec. 3. RCW 41.45.0604 and 2003 c 92 s 4 are each amended to read as follows:

(1) Not later than ~~((September 30, 2004))~~ July 31, 2008, and every even-numbered year thereafter, the law enforcement officers' and fire fighters' plan 2 retirement board shall adopt contribution rates for the law enforcement officers' and fire fighters' retirement system plan 2 as provided in RCW 41.26.720(1)(a).

(2) The law enforcement officers' and fire fighters' plan 2 retirement board shall immediately notify the directors of the office of financial management and department of retirement systems of the state, employer, and employee rates adopted. Thereafter, the director shall collect those rates adopted by the board. The rates shall be effective for the ensuing biennial period, subject to any legislative modifications.

Sec. 4. RCW 41.45.061 and 2004 c 242 s 40 are each

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amended to read as follows:

(1) The required contribution rate for members of the plan 2 teachers' retirement system shall be fixed at the rates in effect on July 1, 1996, subject to the following:

(a) Beginning September 1, 1997, except as provided in (b) of this subsection, the employee contribution rate shall not exceed the employer plan 2 and 3 rates adopted under RCW 41.45.060, 41.45.054, and 41.45.070 for the teachers' retirement system;

(b) In addition, the employee contribution rate for plan 2 shall be increased by fifty percent of the contribution rate increase caused by any plan 2 benefit increase passed after July 1, 1996;

(c) In addition, the employee contribution rate for plan 2 shall not be increased as a result of any distributions pursuant to section 309, chapter 341, Laws of 1998 and RCW 41.31A.020.

(2) The required contribution rate for members of the school employees' retirement system plan 2 shall equal the school employees' retirement system employer plan 2 and 3 contribution rate adopted under RCW 41.45.060, 41.45.054, and 41.45.070, except as provided in subsection (3) of this section.

(3) The member contribution rate for the school employees' retirement system plan 2 shall be increased by fifty percent of the contribution rate increase caused by any plan 2 benefit increase passed after September 1, 2000.

(4) The required contribution rate for members of the public employees' retirement system plan 2 shall be set at the same rate as the employer combined plan 2 and plan 3 rate.

(5) The required contribution rate for members of the law enforcement officers' and fire fighters' retirement system plan 2 shall be set at fifty percent of the cost of the retirement system.

(6) The employee contribution rates for plan 2 under subsections (3) and (4) of this section shall not include any increase as a result of any distributions pursuant to RCW 41.31A.020 and 41.31A.030.

(7) The required plan 2 and 3 contribution rates for employers shall be adopted in the manner described in RCW 41.45.060, 41.45.054, and 41.45.070.

(8) The required contribution rate for members of the public safety employees' retirement system plan 2 shall be set at fifty percent of the cost of the retirement system.

(9) Concurrently with the adoption of employer contribution rates, the state actuary shall calculate the required contribution rates for plan 2 members, which are fixed in accordance with this section. Upon adoption of employer contribution rates, the state actuary shall immediately notify the directors of the office of financial management and department of retirement systems of the required contribution rates for members, which shall be effective for the ensuing rate-setting period.

Sec. 5. RCW 41.45.0631 and 2006 c 94 s 2 are each amended to read as follows:

Beginning July 1, 2001, the required contribution rate for members of the Washington state patrol retirement system shall be two percent or equal to the employer rate adopted under RCW 41.45.060 and 41.45.070 for the Washington state patrol retirement system, whichever is greater. The employee contribution rate shall not, however, include any increase as a result of distributions under RCW 43.43.270(2) for survivors of members who became disabled under RCW 43.43.040(2) prior to July 1, 2006. Concurrently with the adoption of the employer contribution rate for the Washington state patrol retirement system, the state actuary shall calculate the required contribution rate for members, which is fixed in accordance with this section. The state actuary shall immediately notify the directors of the office of financial management and department of retirement systems of the required contribution rate for members, which shall be effective for the ensuing rate-setting period.

Sec. 6. RCW 41.45.110 and 2003 c 295 s 10 are each amended to read as follows:

The pension funding council shall solicit and administer a biennial actuarial audit of the preliminary and final actuarial valuations used for employer and member rate-setting purposes. This audit will be conducted concurrent with the actuarial valuation performed by the state actuary. At least once in each

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six-year period, the pension funding council shall solicit and administer an actuarial audit of the results of the experience study required in RCW 41.45.090. Upon receipt of the results of the preliminary actuarial audits required by this section, and at least thirty days prior to adopting contribution rates, the pension funding council shall submit the results to the select committee on pension policy."

On page 1, line 2 of the title, after "systems;" strike the remainder of the title and insert "and amending RCW 41.45.030, 41.45.060, 41.45.0604, 41.45.061, 41.45.0631, and 41.45.110." and the same are herewith transmitted.

RICHARD NAFZIGER, Chief Clerk

MOTION

Senator Prentice moved that the Senate concur in the House amendment(s) to Senate Bill No. 5014.

The President declared the question before the Senate to be the motion by Senator Prentice that the Senate concur in the House amendment(s) to Senate Bill No. 5014.

The motion by Senator Prentice carried and the Senate concurred in the House amendment(s) to Senate Bill No. 5014 by voice vote.

The President declared the question before the Senate to be the final passage of Senate Bill No. 5014, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 5014, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 1; Excused, 1.

Voting yea: Senators Berkey, Brandland, Carrell, Clements, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, Morton, Murray, Oemig, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Tom, Weinstein and Zarelli - 47

Absent: Senator Brown - 1

Excused: Senator Benton - 1

SENATE BILL NO. 5014, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

On motion of Senator Regala, Senator Brown was excused.

MESSAGE FROM THE HOUSE

April 11, 2007

MR. PRESIDENT:

The House has passed ENGROSSED SUBSTITUTE SENATE BILL NO. 5037, with the following amendment: 5037-S.E AMH MORR MUNN 077

On page 2, line 14, after "property" insert ";

(d) A moving motor vehicle while using a hearing aid" and the same are herewith transmitted.

RICHARD NAFZIGER, Chief Clerk

MOTION

Senator Eide moved that the Senate concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 5037.

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Senator Eide spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Eide that the Senate concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 5037.

The motion by Senator Eide carried and the Senate concurred in the House amendment(s) to Engrossed Substitute Senate Bill No. 5037 by voice vote.

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 5037, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 5037, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 33; Nays, 15; Absent, 0; Excused, 1.

Voting yea: Senators Berkey, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Haugen, Hobbs, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, Murray, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Rockefeller, Shin, Spanel, Swecker, Tom and Weinstein - 33

Voting nay: Senators Brandland, Clements, Hargrove, Hatfield, Hewitt, Holmquist, Honeyford, Morton, Oemig, Parlette, Roach, Schoessler, Sheldon, Stevens and Zarelli - 15

Excused: Senator Benton - 1

ENGROSSED SUBSTITUTE SENATE BILL NO. 5037, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

April 4, 2007

MR. PRESIDENT:

The House has passed SUBSTITUTE SENATE BILL NO. 5053, with the following amendment: 5053-S. AMH ENGR H3230.E

Strike everything after the enacting clause and insert the following:

NEW SECTION. Sec. 1. A new section is added to chapter 51.14 RCW to read as follows:

The office of the ombudsman for workers of industrial insurance self-insured employers is created. The ombudsman shall be appointed by the governor and report directly to the director of the department. The office of the ombudsman may be openly and competitively contracted by the governor in accordance with chapter 39.29 RCW but shall not be physically housed within the industrial insurance division.

NEW SECTION. Sec. 2. A new section is added to chapter 51.14 RCW to read as follows:

The person appointed ombudsman shall hold office for a term of six years and shall continue to hold office until reappointed or until his or her successor is appointed. The governor may remove the ombudsman only for neglect of duty, misconduct, or inability to perform duties. Any vacancy shall be filled by similar appointment for the remainder of the unexpired term.

NEW SECTION. Sec. 3. A new section is added to chapter 51.14 RCW to read as follows:

Any ombudsman appointed under this chapter shall have training or experience, or both, in the following areas:

- (1) Washington state industrial insurance including self-insurance programs;
- (2) The Washington state legal system;
- (3) Dispute or problem resolution techniques, including investigation, mediation, and negotiation.

NEW SECTION. Sec. 4. A new section is added to chapter 51.14 RCW to read as follows:

During the first two years after the office of the ombudsman is created, the staffing level shall be no more than four persons, including the ombudsman and any administrative staff. Thereafter, the staffing levels shall be determined based upon the office of the ombudsman's workload and whether any additional locations are needed.

NEW SECTION. Sec. 5. A new section is added to chapter 51.14 RCW to read as follows:

The office of the ombudsman shall have the following powers and duties:

- (1) To act as an advocate for injured workers of self-insured employers;
- (2) To offer and provide information on industrial insurance as appropriate to workers of self-insured employers;
- (3) To identify, investigate, and facilitate resolution of industrial insurance complaints from workers of self-insured employers;
- (4) To maintain a statewide toll-free telephone number for the receipt of complaints and inquiries; and
- (5) To refer complaints to the department when appropriate.

NEW SECTION. Sec. 6. A new section is added to chapter 51.14 RCW to read as follows:

(1) The office of the ombudsman shall develop referral procedures for complaints by workers of self-insured employers. The department shall act as quickly as possible on any complaint referred to them by the office of the ombudsman.

(2) The department shall respond to any complaint against a self-insured employer referred to it by the office of the ombudsman and shall forward the office of the ombudsman a summary of the results of the investigation and action proposed or taken.

NEW SECTION. Sec. 7. A new section is added to chapter 51.14 RCW to read as follows:

(1) No ombudsman is liable for good faith performance of responsibilities under this chapter.

(2) No discriminatory, disciplinary, or retaliatory action may be taken against any employee of a self-insured employer for any communication made, or information given or disclosed, to assist the ombudsman in carrying out its duties and responsibilities, unless the same was done maliciously. This subsection is not intended to infringe on the rights of the employer to supervise, discipline, or terminate an employee for other reasons.

(3) All communications by the ombudsman, if reasonably related to the requirements of his or her responsibilities under this chapter and done in good faith, are privileged and confidential, and this shall serve as a defense to any action in libel or slander.

(4) Representatives of the office of the ombudsman are exempt from being required to testify as to any privileged or confidential matters except as the court may deem necessary to enforce this chapter.

NEW SECTION. Sec. 8. A new section is added to chapter 51.14 RCW to read as follows:

All records and files of the ombudsman relating to any complaint or investigation made pursuant to carrying out its duties and the identities of complainants, witnesses, or injured workers shall remain confidential unless disclosure is authorized by the complainant or injured worker or his or her guardian or legal representative. No disclosures may be made outside the office of the ombudsman without the consent of any named witness or complainant unless the disclosure is made without the identity of any of these individuals being disclosed.

NEW SECTION. Sec. 9. A new section is added to chapter 51.14 RCW to read as follows:

The ombudsman shall integrate into existing posters and brochures information explaining the ombudsman program. Both the posters and the brochures shall contain the ombudsman's toll-free telephone number. Every self-insured employer must place a poster in an area where all workers have access to it. The self-insured employer must provide a brochure to all injured workers at the time the employer is notified of the worker's injury.

NEW SECTION. Sec. 10. A new section is added to chapter 51.14 RCW to read as follows:

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(1) To provide start-up funding for the office of the ombudsman, the department shall impose a one-time assessment on all self-insurers. The amount of the assessment shall be determined by the department and shall not exceed the amount needed to pay the start-up costs.

(2) Ongoing funding for the office of the ombudsman shall be obtained as part of an annual administrative assessment of self-insurers under RCW 51.44.150. This assessment shall be proportionately based on the number of claims for each self-insurer during the past year.

Sec. 11. RCW 51.44.150 and 1971 ex.s. c 289 s 59 are each amended to read as follows:

The director shall impose and collect assessments each fiscal year upon all self-insurers in the amount of the estimated costs of administering their portion of this title during such fiscal year. These assessments shall also include the assessments for the ombudsman's office provided for in section 10 of this act. The time and manner of imposing and collecting assessments due the department shall be set forth in regulations promulgated by the director in accordance with chapter 34.05 RCW.

NEW SECTION. Sec. 12. A new section is added to chapter 51.14 RCW to read as follows:

(1) The ombudsman shall provide the governor with an annual report that includes the following:

(a) A description of the issues addressed during the past year and a very brief description of case scenarios in a form that does not compromise confidentiality;

(b) An accounting of the monitoring activities by the ombudsman; and

(c) An identification of the deficiencies in the industrial insurance system related to self-insurers, if any, and recommendations for remedial action in policy or practice.

(2) The first annual report shall be due on or before October 1, 2008. Subsequent reports shall be due on or before October 1st.

and the same are herewith transmitted.

RICHARD NAFZIGER, Chief Clerk

MOTION

Senator Kohl-Welles moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5053.

Senator Kohl-Welles spoke in favor of the motion.

Senator Clements spoke against the motion.

The President declared the question before the Senate to be the motion by Senator Kohl-Welles that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5053.

The motion by Senator Kohl-Welles carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 5053 by voice vote.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5053, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5053, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 32; Nays, 15; Absent, 2; Excused, 0.

Voting yea: Senators Benton, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hobbs, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, Murray, Oemig, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Shin, Spanel, Tom and Weinstein - 32

Voting nay: Senators Brandland, Carrell, Clements, Delvin, Hewitt, Holmquist, Honeyford, McCaslin, Morton, Parlette, Schoesler, Sheldon, Stevens, Swecker and Zarelli - 15

Absent: Senators Berkey and Brown - 2

SUBSTITUTE SENATE BILL NO. 5053, as amended by the House, having received the constitutional majority, was

declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

On motion of Senator Eide, Senators Berkey and Brown were excused.

MESSAGE FROM THE HOUSE

April 5, 2007

MR. PRESIDENT:

The House has passed SENATE BILL NO. 5084, with the following amendment: 5084 AMH TR LEAT 036

On page 2, line 29, after "(1)" strike "~~((d))~~" and insert "(d)"

On page 4, line 2, after "(1)" strike "~~((d))~~" and insert "(d)"

On page 5, line 14, after "(1)" strike "~~((d))~~" and insert "(d)"

On page 6, line 28, after "(1)" strike "~~((d))~~" and insert "(d)"

On page 8, line 4, after "(1)" strike "~~((d))~~" and insert "(d)"

On page 9, line 16, after "(1)" strike "~~((d))~~" and insert "(d)"

On page 9, line 35, after "in" strike "~~((subsection (1)(d) of))~~" and insert "subsection (1)(d) of"

On page 11, line 23, after "department's" insert "direct"

On page 11, line 24, after "associated" insert "only"

On page 11, line 26, after "section" insert ", and the fee shall not be a flat fee but shall be imposed on each owner and operator in proportion to the effort expended by the department in relation to individual plans."

and the same are herewith transmitted.

RICHARD NAFZIGER, Chief Clerk

MOTION

Senator Murray moved that the Senate concur in the House amendment(s) to Senate Bill No. 5084.

Senators Murray and Swecker spoke in favor of the motion.

MOTION

On motion of Senator Regala, Senator Pridemore was excused.

MOTION

On motion of Senator Brandland, Senator Parlette was excused.

The President declared the question before the Senate to be the motion by Senator Murray that the Senate concur in the House amendment(s) to Senate Bill No. 5084.

The motion by Senator Murray carried and the Senate concurred in the House amendment(s) to Senate Bill No. 5084 by voice vote.

The President declared the question before the Senate to be the final passage of Senate Bill No. 5084, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 5084, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 44; Nays, 0; Absent, 1; Excused, 4.

Voting yea: Senators Benton, Brandland, Carrell, Clements, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, Morton, Murray, Oemig, Poulsen, Prentice, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Tom, Weinstein and

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Zarelli - 44

Absent: Senator Pflug - 1

Excused: Senators Berkey, Brown, Parlette and Pridemore -

4

SENATE BILL NO. 5084, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

April 10, 2007

MR. PRESIDENT:

The House has passed SENATE BILL NO. 5088, with the following amendment: 5088 AMH ROLF MUNN 076; 5088 AMH SCHI MUNN 080

On page 1, line 15, after "ferry," insert "Violations of this section are not part of the vehicle driver's driving record under RCW 46.52.101 and 46.52.120."

On page 1, at the beginning of line 6, insert "(1)"

On page 2, after line 15, insert:

"(2) Subsection (1) of this section does not apply to a driver of a motor vehicle intending to board the Keller Ferry on State Route 21."

and the same are herewith transmitted.

RICHARD NAFZIGER, Chief Clerk

MOTION

Senator Murray moved that the Senate concur in the House amendment(s) to Senate Bill No. 5088.

Senator Murray spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Murray that the Senate concur in the House amendment(s) to Senate Bill No. 5088.

The motion by Senator Murray carried and the Senate concurred in the House amendment(s) to Senate Bill No. 5088 by voice vote.

The President declared the question before the Senate to be the final passage of Senate Bill No. 5088, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 5088, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 43; Nays, 2; Absent, 0; Excused, 4.

Voting yea: Senators Benton, Brandland, Carrell, Clements, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hobbs, Holmquist, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, Morton, Murray, Oemig, Pflug, Poulsen, Prentice, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Tom, Weinstein and Zarelli - 43

Voting nay: Senators Hewitt and Honeyford - 2

Excused: Senators Berkey, Brown, Parlette and Pridemore -

4

SENATE BILL NO. 5088, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

On motion of Senator Brandland, Senator Swecker was excused.

MESSAGE FROM THE HOUSE

April 9, 2007

MR. PRESIDENT:

The House has passed SECOND SUBSTITUTE SENATE BILL NO. 5092, with the following amendment: 5092 S2 AMH KENN TAYL 144

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** The legislature finds that economic development success requires coordinated state and local efforts. The legislature further finds that economic development happens at the local level. County-designated associate development organizations serve as a networking tool and resource hub for business retention, expansion, and relocation in Washington. Economic development success requires an adequately funded and coordinated state effort and an adequately funded and coordinated local effort. The legislature intends to bolster the partnership between state and local economic development efforts, provide increased funding for local economic development services, and increase local economic development service effectiveness, efficiency, and outcomes.

Sec. 2. RCW 43.330.080 and 1997 c 60 s 1 are each amended to read as follows:

~~((1))~~ The department shall contract with county-designated associate development organizations ~~((or other local organizations))~~ to increase the support for and coordination of community and economic development services in communities or regional areas. The organizations contracted with in each community or regional area shall be broadly representative of community and economic interests. The organization shall be capable of identifying key economic and community development problems, developing appropriate solutions, and mobilizing broad support for recommended initiatives. The contracting organization shall work with and include local governments, local chambers of commerce, ~~((private industry))~~ workforce development councils, port districts, labor groups, institutions of higher education, community action programs, and other appropriate private, public, or nonprofit community and economic development groups. The ~~((department shall be responsible for determining the))~~ scope of services delivered under these contracts:(

~~(2) Associate development organizations or other local development organizations contracted with shall promote and coordinate, through local service agreements with local governments, small business development centers, port districts, community and technical colleges, private industry councils, and other development organizations, for the efficient delivery of community and economic development services in their areas.~~

~~(3) The department shall consult with associate development organizations, port districts, local governments, and other local development organizations in the establishment of service delivery regions throughout the state. The legislature encourages local associate development organizations to form partnerships with other associate development organizations in their region to combine resources for better access to available services, to encourage regional delivery of state services, and to build the local capacity of communities in the region more effectively.~~

~~(4) The department shall contract on a regional basis for surveys of key sectors of the regional economy and the coordination of technical assistance to businesses and employees within the key sectors. The department's selection of contracting organizations or consortiums shall be based on the sufficiency of the organization's or consortium's proposal to examine key sectors of the local economy within its region adequately and its ability to coordinate the delivery of services required by businesses within the targeted sectors. Organizations contracting with the department shall work closely with the department to examine the local economy and to develop strategies to focus on developing key sectors that show potential for long-term~~

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sustainable growth. ~~The contracting organization shall survey businesses and employees in targeted sectors on a periodic basis to gather information on the sector's business needs, expansion plans, relocation decisions, training needs, potential layoffs, financing needs, availability of financing, and other appropriate information about economic trends and specific employer and employee needs in the region.~~

~~(5)) shall include two broad areas of work:~~

~~(1) Direct assistance, including business planning, to companies who need support to stay in business, expand, or relocate to Washington from out of state or other countries. Assistance includes:~~

~~(a) Working with the appropriate partners, including but not limited to, local governments, workforce development organizations, port districts, community colleges and higher education institutions, export assistance providers, the Washington manufacturing services, the Washington state quality award, council, small business assistance programs, and other federal, state, and local programs to facilitate the alignment of planning efforts and the seamless delivery of business support services in the county;~~

~~(b) Providing information on state and local permitting processes, tax issues, and other essential information for operating, expanding or locating a business in Washington;~~

~~(c) Marketing Washington and local areas as excellent locations to expand or relocate a business and positioning Washington as a globally competitive place to grow business, which may include developing and executing regional plans to attract companies from out of state;~~

~~(d) Working with businesses on site location and selection assistance;~~

~~(e) Providing business retention and expansion services, including business outreach and monitoring efforts to identify and address challenges and opportunities faced by businesses; and~~

~~(f) Participate in economic development system-wide discussions regarding gaps in business start-up assistance in Washington; and~~

~~(2) Support for regional economic research and regional planning efforts to implement target industry strategies and other economic development strategies that support increased living standards and increase foreign direct investment throughout Washington. Activities include:~~

~~(a) Participation in regional planning efforts involving combined strategies around workforce development and economic development policies and programs. The contracting organization shall participate with the ((work force training and education coordinating board as created in chapter 28C.18 RCW, and any regional entities designated by that board;)) the state board for community and technical colleges as created in RCW 28B.50.050, and any community and technical colleges in providing for the coordination of job skills training within its region;~~

~~(b) Collecting and reporting data as specified by the contract with the department for statewide systemic analysis. The department shall consult with the Washington state economic development commission in the establishment of such uniform data as is needed to conduct a statewide systemic analysis of the state's economic development programs and expenditures. In cooperation with other local, regional, and state planning efforts, contracting organizations may provide insight into the needs of target industry clusters, business expansion plans, early detection of potential relocations or layoffs, training needs, and other appropriate economic information;~~

~~(c) In conjunction with other governmental jurisdictions and institutions, participate in the development of a countywide economic development plan, consistent with the state comprehensive plan for economic development developed by the Washington state economic development commission.~~

NEW SECTION. Sec. 3. (1) Contracting associate development organizations shall provide the department with measures of their performance. Annual reports shall include information on the impact of the contracting organization on employment, wages, tax revenue, and capital investment. Specific measures shall be developed in the contracting process

between the department and the contracting organization every two years. Performance measures should be consistent across regions to allow for statewide evaluation.

(2)(a) The department and contracting organizations shall agree upon specific target levels for the performance measures in subsection (1) of this section. Comparison of agreed thresholds and actual performance shall occur annually.

(b) Contracting organizations that fail to achieve the agreed performance targets in more than one-half of the agreed measures shall develop remediation plans to address performance gaps. The remediation plans shall include revised performance thresholds specifically chosen to provide evidence of progress in making the identified service changes.

(c) Contracts and state funding shall be terminated for one year for organizations that fail to achieve the agreed upon progress toward improved performance defined under (b) of this subsection. During the year in which termination for nonperformance is in effect, organizations shall review alternative delivery strategies to include reorganization of the contracting organization, merging of previous efforts with existing regional partners, and other specific steps toward improved performance. At the end of the period of termination, the department may contract with the associate development organization or its successor as it deems appropriate.

(3) The department shall report to the legislature and the Washington economic development commission by December 31st of each year on the performance results of the contracts with associate development organizations.

NEW SECTION. Sec. 4. Up to five associate development organizations per year contracting with the department under this act that apply for the Washington state quality award or its equivalent shall receive reimbursement for the award application fee, but may not be reimbursed more than once every three years.

NEW SECTION. Sec. 5. To the extent that funds are specifically appropriated therefor, contracts with associate development organizations for the provision of services under RCW 43.330.080(1) shall be awarded according to the following annual schedule:

(1) For associate development associations serving urban counties, which are counties other than rural counties as defined in RCW 43.160.020, a locally matched allocation of up to ninety cents per capita, totaling no more than three hundred thousand dollars per organization; and

(2) For associate development associations in rural counties, as defined in RCW 43.160.020, a per county base allocation of up to forty thousand dollars and a locally matched allocation of up to ninety cents per capita.

NEW SECTION. Sec. 6. Sections 3 through 5 of this act are each added to chapter 43.330 RCW.

NEW SECTION. Sec. 7. If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2007, in the omnibus appropriations act, this act is null and void."

Correct the title.

and the same are herewith transmitted.

RICHARD NAFZIGER, Chief Clerk

MOTION

Senator Marr moved that the Senate concur in the House amendment(s) to Second Substitute Senate Bill No. 5092.

Senator Marr spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Marr that the Senate concur in the House amendment(s) to Second Substitute Senate Bill No. 5092.

The motion by Senator Marr carried and the Senate concurred in the House amendment(s) to Second Substitute Senate Bill No. 5092 by voice vote.

The President declared the question before the Senate to be the final passage of Second Substitute Senate Bill No. 5092, as amended by the House.

ROLL CALL

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The Secretary called the roll on the final passage of Second Substitute Senate Bill No. 5092, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 44; Nays, 0; Absent, 1; Excused, 4.

Voting yea: Senators Benton, Berkey, Brandland, Carrell, Clements, Delvin, Eide, Fairley, Franklin, Fraser, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McCauliffe, McCaslin, Morton, Murray, Oemig, Pflug, Poulsen, Prentice, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Tom, Weinstein and Zarelli - 44

Absent: Senator Hargrove - 1

Excused: Senators Brown, Parlette, Pridemore and Swecker - 4

SECOND SUBSTITUTE SENATE BILL NO. 5092, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

April 10, 2007

MR. PRESIDENT:

The House has passed ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 5098, with the following amendment: 5098-S2.E AMH HE H3268.1

On page 3, beginning on line 32, after "high" strike all material through "principals" on line 33, and insert "schools"

On page 3, line 34, after "program" insert "using methods in place for communicating with schools and school districts"

On page 3, after line 36, insert the following:

"NEW SECTION. Sec. 4. Each school district shall notify students, parents, teachers, counselors, and principals about the Washington college bound scholarship program through existing channels. Notification methods may include, but are not limited to, regular school district and building communications, online scholarship bulletins and announcements, notices posted on school walls and bulletin boards, information available in each counselor's office, and school or district scholarship information sessions."

Remember the remaining sections consecutively and correct any internal references accordingly, and the same are herewith transmitted.

RICHARD NAFZIGER, Chief Clerk

MOTION

Senator Rockefeller moved that the Senate concur in the House amendment(s) to Engrossed Second Substitute Senate Bill No. 5098.

The President declared the question before the Senate to be the motion by Senator Rockefeller that the Senate concur in the House amendment(s) to Engrossed Second Substitute Senate Bill No. 5098.

The motion by Senator Rockefeller carried and the Senate concurred in the House amendment(s) to Engrossed Second Substitute Senate Bill No. 5098 by voice vote.

The President declared the question before the Senate to be the final passage of Engrossed Second Substitute Senate Bill No. 5098, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Second Substitute Senate Bill No. 5098, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 45; Nays, 0; Absent, 1; Excused, 3.

Voting yea: Senators Benton, Berkey, Brandland, Carrell,

Clements, Delvin, Eide, Fairley, Franklin, Fraser, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McCauliffe, McCaslin, Morton, Murray, Oemig, Parlette, Pflug, Poulsen, Prentice, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Tom, Weinstein and Zarelli - 45

Absent: Senator Hargrove - 1

Excused: Senators Brown, Pridemore and Swecker - 3

ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 5098, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

On motion of Senator Regala, Senator Hargrove was excused.

MESSAGE FROM THE HOUSE

April 5, 2007

MR. PRESIDENT:

The House has passed SUBSTITUTE SENATE BILL NO. 5101, with the following amendment: 5101-S AMH APP H3339.1

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 28B.15.558 and 2005 c 249 s 4 are each amended to read as follows:

(1) The governing boards of the state universities, the regional universities, The Evergreen State College, and the community colleges may waive all or a portion of the tuition and services and activities fees for state employees as defined under subsection (2) of this section and teachers and other certificated instructional staff under subsection (3) of this section. The enrollment of these persons is pursuant to the following conditions:

(a) Such persons shall register for and be enrolled in courses on a space available basis and no new course sections shall be created as a result of the registration;

(b) Enrollment information on persons registered pursuant to this section shall be maintained separately from other enrollment information and shall not be included in official enrollment reports, nor shall such persons be considered in any enrollment statistics that would affect budgetary determinations; and

(c) Persons registering on a space available basis shall be charged a registration fee of not less than five dollars.

(2) For the purposes of this section, "state employees" means persons employed half-time or more in one or more of the following employee classifications:

(a) Permanent employees in classified service under chapter 41.06 RCW;

(b) Permanent employees governed by chapter 41.56 RCW pursuant to the exercise of the option under RCW 41.56.201;

(c) Permanent classified employees and exempt paraprofessional employees of technical colleges; and

(d) Faculty, counselors, librarians, and exempt professional and administrative employees at institutions of higher education as defined in RCW 28B.10.016.

(3) The waivers available to state employees under this section shall also be available to teachers and other certificated instructional staff employed at public common and vocational schools, holding or seeking a valid endorsement and assignment in a state-identified shortage area.

(4) In awarding waivers, an institution of higher education may award waivers to eligible persons employed by the institution before considering waivers for eligible persons who are not employed by the institution.

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~~((4))~~ (5) If an institution of higher education exercises the authority granted under this section, it shall include all eligible state employees in the pool of persons eligible to participate in the program.

~~((5))~~ (6) In establishing eligibility to receive waivers, institutions of higher education may not discriminate between full-time employees and employees who are employed half-time or more," and the same are herewith transmitted.

RICHARD NAFZIGER, Chief Clerk

MOTION

Senator Hobbs moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5101.

Senator Hobbs spoke in favor of the motion.

MOTION

The President declared the question before the Senate to be the motion by Senator Hobbs that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5101.

The motion by Senator Hobbs carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 5101 by voice vote.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5101, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5101, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 45; Nays, 0; Absent, 1; Excused, 3.

Voting yea: Senators Benton, Berkey, Brandland, Carrell, Clements, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, Morton, Murray, Oemig, Parlette, Pflug, Poulsen, Prentice, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Tom, Weinstein and Zarelli - 45

Absent: Senator Delvin - 1

Excused: Senators Brown, Pridemore and Swecker - 3

SUBSTITUTE SENATE BILL NO. 5101, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

April 3, 2007

MR. PRESIDENT:

The House has passed ENGROSSED SUBSTITUTE SENATE BILL NO. 5112, with the following amendment: 5112-S.E AMH CL ELGE 055

On page 2, line 6, after "fees" strike all material through "waived" on line 7 and insert "and surety bond requirements in RCW 88.02.060 are waived"

On page 2, beginning on line 8, strike all of section 2 Correct the title.

and the same are herewith transmitted.

RICHARD NAFZIGER, Chief Clerk

MOTION

Senator Schoesler moved that the Senate concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 5112.

Senators Schoesler and Kohl-Welles spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Schoesler that the Senate concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 5112.

The motion by Senator Schoesler carried and the Senate concurred in the House amendment(s) to Engrossed Substitute Senate Bill No. 5112 by voice vote.

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 5112, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 5112, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 45; Nays, 0; Absent, 1; Excused, 3.

Voting yea: Senators Benton, Berkey, Brandland, Carrell, Clements, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McCaslin, Morton, Murray, Oemig, Parlette, Pflug, Poulsen, Prentice, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Tom, Weinstein and Zarelli - 45

Absent: Senator McAuliffe - 1

Excused: Senators Brown, Pridemore and Swecker - 3

ENGROSSED SUBSTITUTE SENATE BILL NO. 5112, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

April 10, 2007

MR. PRESIDENT:

The House has passed SECOND SUBSTITUTE SENATE BILL NO. 5188, with the following amendment: 5188-S2 AMH AGNR H3235.1

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. The legislature finds that licensed wildlife rehabilitators often work closely with local law enforcement, animal control officers, wildlife enforcement officers, and wildlife biologists at the state and federal levels to aid in the safe capture, testing for disease, medical treatment, rehabilitation, and release of wildlife. The state recognizes the critical role licensed wildlife rehabilitators play in capturing and caring for the sick, injured, and orphaned wildlife of Washington state.

Sec. 2. RCW 46.16.606 and 1991 sp.s. c 7 s 13 are each amended to read as follows:

In addition to the fees imposed in RCW 46.16.585 for application and renewal of personalized license plates an additional fee of ~~((ten))~~ twelve dollars shall be charged. ~~((The revenue))~~ Ten dollars from the additional fee shall be deposited in the state wildlife ~~((fund))~~ account and used for the management of resources associated with the nonconsumptive use of wildlife. Two dollars from the additional fee shall be deposited into the wildlife rehabilitation account created under section 3 of this act.

NEW SECTION. Sec. 3. A new section is added to chapter 77.12 RCW to read as follows:

The wildlife rehabilitation account is created in the state treasury. All receipts from moneys directed to the account from RCW 46.16.606 must be deposited into the account. Moneys in

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the account may be spent only after appropriation. Expenditures from the account may be used only for the support of the wildlife rehabilitation program created under section 4 of this act.

NEW SECTION. Sec. 4. A new section is added to chapter 77.12 RCW to read as follows:

(1) The director shall establish a wildlife rehabilitation program to help support the critical role licensed wildlife rehabilitators play in protecting the public by capturing, testing for disease, and caring for sick, injured, and orphaned wildlife in Washington state. The director shall contract for wildlife rehabilitation services with up to four people in each of the department's six administrative regions. Applicants may submit only one request every two years and must reside in the administrative region for which they have applied. The contracts must be for a term of two years.

(2) In order to receive funding, the wildlife rehabilitator must: (a) Be properly licensed in wildlife rehabilitation under state and federal law; and (b) furnish information concerning his or her identity, including fingerprints for submission to the Washington state patrol to include a national criminal background check. The applicant must pay for the cost of the criminal background check. If the background check reveals that the applicant has been convicted of a felony or gross misdemeanor, the applicant is ineligible to receive funding.

(3) The department must require that contractors submit detailed reports accounting for all expenditures of state funds. The reports must be submitted to the department on a quarterly basis. The department may require the contractor to submit to an inspection of the rehabilitation facility to ensure compliance with department rules governing wildlife rehabilitation. Expenditures that are permitted under this program as they specifically relate to wildlife rehabilitation include: (a) Reimbursement for diagnostic and lab support services; (b) purchase and maintenance of proper restraints and equipment used in the capture, transportation, temporary housing, and release of wildlife; (c) reimbursement of contracted veterinary services; (d) reimbursement of the cost of food, medication, and other consumables; and (e) reimbursement of the cost of continuing education. The department shall give priority to applications submitted that provide for the rehabilitation of endangered or threatened species. Funds may not be used to rehabilitate either nonnative species or nuisance animals, or both, including, but not limited to the following: Eastern gray squirrels (*Sciurus carolinensis*); opossum (*Didelphis virginiana*); raccoons (*Procyon lotor*); striped skunk (*Mephitis mephitis*); spotted skunk (*Spilogale putorius*); Eastern cottontail rabbit (*Sylvilagus floridanus*); domestic rabbit (*Oryctolagus cuniculus*); European starling (*Sturnus vulgaris*); and house sparrow (*Passer domesticus*).

(4) The department may adopt any rules as are necessary to carry out this section.

NEW SECTION. Sec. 5. A new section is added to chapter 77.12 RCW to read as follows:

The department must develop a process for renewing wildlife rehabilitation licenses. All wildlife rehabilitation licenses issued by the department prior to January 1, 2006, must be renewed by January 1, 2010. The department may adopt rules as necessary to implement this section.

NEW SECTION. Sec. 6. Section 2 of this act is effective for registrations due or to become due on or after January 1, 2008."

Correct the title.
and the same are herewith transmitted.

RICHARD NAFZIGER, Chief Clerk

MOTION

Senator Murray moved that the Senate concur in the House amendment(s) to Second Substitute Senate Bill No. 5188.

Senator Murray spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Murray that the Senate concur in the House amendment(s) to Second Substitute Senate Bill No. 5188.

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The motion by Senator Murray carried and the Senate concurred in the House amendment(s) to Second Substitute Senate Bill No. 5188 by voice vote.

The President declared the question before the Senate to be the final passage of Second Substitute Senate Bill No. 5188, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Second Substitute Senate Bill No. 5188, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 36; Nays, 10; Absent, 0; Excused, 3.

Voting yea: Senators Berkey, Brandland, Clements, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, Murray, Oemig, Parlette, Pflug, Poulsen, Prentice, Rasmussen, Regala, Rockefeller, Schoesler, Shin, Spanel, Tom, Weinstein and Zarelli - 36

Voting nay: Senators Benton, Carrell, Delvin, Holmquist, Honeyford, McCaslin, Morton, Roach, Sheldon and Stevens - 10

Excused: Senators Brown, Pridemore and Swecker - 3

SECOND SUBSTITUTE SENATE BILL NO. 5188, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

PERSONAL PRIVILEGE

Senator Prentice: "I would like to call attention to two very fine groups that are here. One group from Mabton and one group from Pateros. I would like to point out that as, well anyway, it's pretty obvious. They've got same skin color as I. That was my last name. I'm just asking if anybody-and I realize I'm being out of order-but I just think that this is a phenomenon that is wonderful to see. These kids here in school and I would say stay in school. Yo say la primera latina aqui....and you could be here too. I'm just so proud to see. Thank you."

REMARKS BY THE PRESIDENT

President Owen: "Senator Prentice, udsted esta siempre en orden. Siempre."

MOTION

On motion of Senator Regala, Senator Hobbs was excused.

MESSAGE FROM THE HOUSE

April 3, 2007

MR. PRESIDENT:

The House has passed SUBSTITUTE SENATE BILL NO. 5243, with the following amendment: 5243-S AMH HS H3112.1

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 13.40.210 and 2002 c 175 s 27 are each amended to read as follows:

(1) The secretary shall set a release date for each juvenile committed to its custody. The release date shall be within the prescribed range to which a juvenile has been committed under RCW 13.40.0357 or 13.40.030 except as provided in RCW 13.40.320 concerning offenders the department determines are eligible for the juvenile offender basic training camp program. Such dates shall be determined prior to the expiration of sixty percent of a juvenile's minimum term of confinement included within the prescribed range to which the juvenile has been committed. The secretary shall release any juvenile committed

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to the custody of the department within four calendar days prior to the juvenile's release date or on the release date set under this chapter. Days spent in the custody of the department shall be tolled by any period of time during which a juvenile has absented himself or herself from the department's supervision without the prior approval of the secretary or the secretary's designee.

(2) The secretary shall monitor the average daily population of the state's juvenile residential facilities. When the secretary concludes that in-residence population of residential facilities exceeds one hundred five percent of the rated bed capacity specified in statute, or in absence of such specification, as specified by the department in rule, the secretary may recommend reductions to the governor. On certification by the governor that the recommended reductions are necessary, the secretary has authority to administratively release a sufficient number of offenders to reduce in-residence population to one hundred percent of rated bed capacity. The secretary shall release those offenders who have served the greatest proportion of their sentence. However, the secretary may deny release in a particular case at the request of an offender, or if the secretary finds that there is no responsible custodian, as determined by the department, to whom to release the offender, or if the release of the offender would pose a clear danger to society. The department shall notify the committing court of the release at the time of release if any such early releases have occurred as a result of excessive in-residence population. In no event shall an offender adjudicated of a violent offense be granted release under the provisions of this subsection.

(3)(a) Following the release of any juvenile under subsection (1) of this section, the secretary may require the juvenile to comply with a program of parole to be administered by the department in his or her community which shall last no longer than eighteen months, except that in the case of a juvenile sentenced for rape in the first or second degree, rape of a child in the first or second degree, child molestation in the first degree, or indecent liberties with forcible compulsion, the period of parole shall be twenty-four months and, in the discretion of the secretary, may be up to thirty-six months when the secretary finds that an additional period of parole is necessary and appropriate in the interests of public safety or to meet the ongoing needs of the juvenile. A parole program is mandatory for offenders released under subsection (2) of this section. The decision to place an offender on parole shall be based on an assessment by the department of the offender's risk for reoffending upon release. The department shall prioritize available parole resources to provide supervision and services to offenders at moderate to high risk for reoffending.

(b) The secretary shall, for the period of parole, facilitate the juvenile's reintegration into his or her community and to further this goal shall require the juvenile to refrain from possessing a firearm or using a deadly weapon and refrain from committing new offenses and may require the juvenile to: (i) Undergo available medical, psychiatric, drug and alcohol, sex offender, mental health, and other offense-related treatment services; (ii) report as directed to a parole officer and/or designee; (iii) pursue a course of study, vocational training, or employment; (iv) notify the parole officer of the current address where he or she resides; (v) be present at a particular address during specified hours; (vi) remain within prescribed geographical boundaries; (vii) submit to electronic monitoring; (viii) refrain from using illegal drugs and alcohol, and submit to random urinalysis when requested by the assigned parole officer; (ix) refrain from contact with specific individuals or a specified class of individuals; (x) meet other conditions determined by the parole officer to further enhance the juvenile's reintegration into the community; (xi) pay any court-ordered fines or restitution; and (xii) perform community restitution. Community restitution for the purpose of this section means compulsory service, without compensation, performed for the benefit of the community by the offender. Community restitution may be performed through public or private organizations or through work crews.

(c) The secretary may further require up to twenty-five percent of the highest risk juvenile offenders who are placed on parole to participate in an intensive supervision program.

Offenders participating in an intensive supervision program shall be required to comply with all terms and conditions listed in (b) of this subsection and shall also be required to comply with the following additional terms and conditions: (i) Obey all laws and refrain from any conduct that threatens public safety; (ii) report at least once a week to an assigned community case manager; and (iii) meet all other requirements imposed by the community case manager related to participating in the intensive supervision program. As a part of the intensive supervision program, the secretary may require day reporting.

(d) After termination of the parole period, the juvenile shall be discharged from the department's supervision.

(4)(a) The department may also modify parole for violation thereof. If, after affording a juvenile all of the due process rights to which he or she would be entitled if the juvenile were an adult, the secretary finds that a juvenile has violated a condition of his or her parole, the secretary shall order one of the following which is reasonably likely to effectuate the purpose of the parole and to protect the public: (i) Continued supervision under the same conditions previously imposed; (ii) intensified supervision with increased reporting requirements; (iii) additional conditions of supervision authorized by this chapter; (iv) except as provided in (a)(v) and (vi) of this subsection, imposition of a period of confinement not to exceed thirty days in a facility operated by or pursuant to a contract with the state of Washington or any city or county for a portion of each day or for a certain number of days each week with the balance of the days or weeks spent under supervision; (v) the secretary may order any of the conditions or may return the offender to confinement for the remainder of the sentence range if the offense for which the offender was sentenced is rape in the first or second degree, rape of a child in the first or second degree, child molestation in the first degree, indecent liberties with forcible compulsion, or a sex offense that is also a serious violent offense as defined by RCW 9.94A.030; and (vi) the secretary may order any of the conditions or may return the offender to confinement for the remainder of the sentence range if the youth has completed the basic training camp program as described in RCW 13.40.320.

(b) The secretary may modify parole and order any of the conditions or may return the offender to confinement for up to twenty-four weeks if the offender was sentenced for a sex offense as defined under RCW 9A.44.130 and is known to have violated the terms of parole. Confinement beyond thirty days is intended to only be used for a small and limited number of sex offenders. It shall only be used when other graduated sanctions or interventions have not been effective or the behavior is so egregious it warrants the use of the higher level intervention and the violation: (i) Is a known pattern of behavior consistent with a previous sex offense that puts the youth at high risk for reoffending sexually; (ii) consists of sexual behavior that is determined to be predatory as defined in RCW 71.09.020; or (iii) requires a review under chapter 71.09 RCW, due to a recent overt act. The total number of days of confinement for violations of parole conditions during the parole period shall not exceed the number of days provided by the maximum sentence imposed by the disposition for the underlying offense pursuant to RCW 13.40.0357. The department shall not aggregate multiple parole violations that occur prior to the parole revocation hearing and impose consecutive twenty-four week periods of confinement for each parole violation. The department is authorized to engage in rule making pursuant to chapter 34.05 RCW, to implement this subsection, including narrowly defining the behaviors that could lead to this higher level intervention.

(c) If the department finds that any juvenile in a program of parole has possessed a firearm or used a deadly weapon during the program of parole, the department shall modify the parole under (a) of this subsection and confine the juvenile for at least thirty days. Confinement shall be in a facility operated by or pursuant to a contract with the state or any county.

(5) A parole officer of the department of social and health services shall have the power to arrest a juvenile under his or her supervision on the same grounds as a law enforcement officer would be authorized to arrest the person.

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(6) If so requested and approved under chapter 13.06 RCW, the secretary shall permit a county or group of counties to perform functions under subsections (3) through (5) of this section.

NEW SECTION. Sec. 2. This act applies prospectively only and not retroactively. It applies only to juvenile offenders who have been adjudicated for an offense that occurred on or after the effective date of this act.

NEW SECTION. Sec. 3. This act takes effect October 1, 2007."

Correct the title.
and the same are herewith transmitted.

RICHARD NAFZIGER, Chief Clerk

MOTION

Senator Brandland moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5243.

Senators Brandland and Regala spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Brandland that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5243.

The motion by Senator Brandland carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 5243 by voice vote.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5243, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5243, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Benton, Berkey, Brandland, Brown, Carrell, Clements, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, Morton, Murray, Oemig, Parlette, Pflug, Poulsen, Prentice, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Tom, Weinstein and Zarelli - 48

Excused: Senator Pridemore - 1

SUBSTITUTE SENATE BILL NO. 5243, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

April 4, 2007

MR. PRESIDENT:

The House has passed SENATE BILL NO. 5512, with the following amendment: 5512 AMH FIN H3121.5

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. The legislature finds that local governments need flexible financing for public improvements that do not increase the combined state and local sales tax rate.

Sec. 2. RCW 39.100.010 and 2006 c 111 s 1 are each amended to read as follows:

The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Benefit zone" means the geographic zone from which taxes are to be appropriated to finance public improvements authorized under this chapter and in which a hospital that has received a certificate of need is to be constructed.

(2) "Department" means the department of revenue.

(3) "Local government" means any city, town, county, or any combination thereof.

(4) "Ordinance" means any appropriate method of taking legislative action by a local government.

(5) "Participating taxing authority" means a taxing authority that has entered into a written agreement with a local government for the use of hospital benefit zone financing to the extent of allocating excess local excise taxes to the local government for the purpose of financing all or a portion of the costs of designated public improvements.

(6) "Public improvements" means infrastructure improvements within the benefit zone that include:

- (a) Street and road construction and maintenance;
- (b) Water and sewer system construction and improvements;
- (c) Sidewalks and streetlights;
- (d) Parking, terminal, and dock facilities;
- (e) Park and ride facilities of a transit authority;
- (f) Park facilities and recreational areas; and
- (g) Storm water and drainage management systems.

(7) "Public improvement costs" means the costs of: (a) Design, planning, acquisition including land acquisition, site preparation including land clearing, construction, reconstruction, rehabilitation, improvement, and installation of public improvements; (b) demolishing, relocating, maintaining, and operating property pending construction of public improvements; (c) relocating utilities as a result of public improvements; and (d) financing public improvements, including interest during construction, legal and other professional services, taxes, insurance, principal and interest costs on indebtedness issued to finance public improvements, and any necessary reserves for indebtedness; and administrative expenses and feasibility studies reasonably necessary and related to these costs, including related costs that may have been incurred before adoption of the ordinance authorizing the public improvements and the use of hospital benefit zone financing to fund the costs of the public improvements.

(8) "Tax allocation revenues" means those tax revenues derived from the receipt of excess local excise taxes under RCW 39.100.050 and distributed by a local government, participating taxing authority, or both, to finance public improvements.

(9) "Taxing authority" means a governmental entity that imposes a sales or use tax under chapter 82.14 RCW upon the occurrence of any taxable event within a proposed or approved benefit zone.

Sec. 3. RCW 39.100.020 and 2006 c 111 s 2 are each amended to read as follows:

A local government may finance public improvements using hospital benefit zone financing subject to the following conditions:

(1) The local government adopts an ordinance designating a benefit zone within its boundaries and specifying the public improvements proposed to be financed in whole or in part with the use of hospital benefit zone financing;

(2) The public improvements proposed to be financed in whole or in part using hospital benefit zone financing are expected both to encourage private development within the benefit zone and to support the development of a hospital that has received a certificate of need;

(3) Private development that is anticipated to occur within the benefit zone, as a result of the public improvements, will be consistent with the county-wide planning policy adopted by the county under RCW 36.70A.210 and the local government's comprehensive plan and development regulations adopted under chapter 36.70A RCW; ~~(and)~~

(4) The governing body of the local government finds that the public improvements proposed to be financed in whole or in part using hospital benefit zone financing are reasonably likely to:

- (a) Increase private investment within the benefit zone;
- (b) Increase employment within the benefit zone; and
- (c) Generate, over the period of time that the local sales and use tax will be imposed under RCW 82.14.465, excess state ~~((and local sales and use tax revenues))~~ excise taxes that are equal to or greater than the ~~((respectively))~~ state ~~((and local))~~ contributions made under this chapter;

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(5) The boundaries of a hospital benefit zone may not overlap any part of the boundaries of another hospital benefit zone or a revenue development area defined in chapter 39.102 RCW; and

(6) The boundaries of a hospital benefit zone may not change once the hospital benefit zone is established and approved by the department.

Sec. 4. RCW 39.100.030 and 2006 c 111 s 3 are each amended to read as follows:

(1) Before adopting an ordinance creating the benefit zone, a local government must:

(a) Obtain written agreement for the use of hospital benefit zone financing to finance all or a portion of the costs of the designated public improvements from any taxing authority that imposes a sales or use tax under chapter 82.14 RCW within the benefit zone if the taxing authority chooses to participate in the public improvements to the extent of providing limited funding under hospital benefit zone financing authorized under this chapter. The agreement must be authorized by the governing body of such participating taxing authorities; and

(b) Hold a public hearing on the proposed financing of the public improvement in whole or in part with hospital benefit zone financing.

(i) Notice of the public hearing must be published in a legal newspaper of general circulation within the proposed benefit zone at least ten days before the public hearing and posted in at least six conspicuous public places located in the proposed benefit zone.

(ii) Notices must describe the contemplated public improvements, estimate the costs of the public improvements, describe the portion of the costs of the public improvements to be borne by hospital benefit zone financing, describe any other sources of revenue to finance the public improvements, describe the boundaries of the proposed benefit zone, and estimate the period during which hospital benefit zone financing is contemplated to be used. The public hearing may be held by either the governing body of the local government, or a committee of the governing body that includes at least a majority of the whole governing body.

(2) In order to create a benefit zone, a local government must adopt an ordinance establishing the benefit zone that:

(a) Describes the public improvements;

(b) Describes the boundaries of the benefit zone;

(c) Estimates the cost of the public improvements and the portion of these costs to be financed by hospital benefit zone financing;

(d) Estimates the time during which excess local excise taxes are to be used to finance public improvement costs associated with the public improvements financed in whole or in part by hospital benefit zone financing;

(e) Estimates the average amount of tax revenue to be received in all fiscal years through the imposition of a sales and use tax under RCW 82.14.465;

(f) Provides the date when the use of excess local excise taxes will commence; and

(g) Finds that the conditions of RCW 39.100.020 are met.

(3) For purposes of this section, "fiscal year" means the year beginning July 1st and ending the following June 30th.

Sec. 5. RCW 39.100.040 and 2006 c 111 s 4 are each amended to read as follows:

(1) A local government that adopts an ordinance creating a benefit zone under this chapter shall, within ninety days of adopting the ordinance:

~~((+))~~ (a) Publish notice in a legal newspaper of general circulation within the benefit zone that describes the public improvement, describes the boundaries of the benefit zone, and identifies the location and times where the ordinance and other public information concerning the public improvement may be inspected; and

~~((=))~~ (b) Deliver a certified copy of the ordinance to the county treasurer, the county assessor, the department of revenue, and the governing body of each participating taxing authority within which the benefit zone is located.

(2) Any challenge to the formation shall be brought within sixty days of the later of the date of its formation or July 1, 2007. All

parties, including the holders of bonds payable from tax revenue under this act, may rely upon the presumption of validity of formation of the benefit zone following the expiration of the sixty-day period.

Sec. 6. RCW 39.100.050 and 2006 c 111 s 5 are each amended to read as follows:

(1) A local government that creates a benefit zone and has received approval from the department under RCW 82.32.700 to impose the local option sales and use tax authorized in RCW 82.14.465 may use annually any excess local excise taxes received by it from taxable activity within the benefit zone to finance public improvement costs associated with the public improvements financed in whole or in part by hospital benefit zone financing. The use of excess local excise taxes must cease when tax allocation revenues are no longer necessary or obligated to pay the costs of the public improvements. Any participating taxing authority is authorized to allocate excess local excise taxes to the local government as long as the local government has received approval from the department under RCW 82.32.700 to impose the local option sales and use tax authorized in RCW 82.14.465. The legislature declares that it is a proper purpose of a local government or participating taxing authority to allocate excess local excise taxes for purposes of financing public improvements under this chapter.

(2) A local government shall provide the department accurate information describing the geographical boundaries of the benefit zone at least seventy-five days before the effective date of the ordinance creating the benefit zone. The local government shall ensure that the boundary information provided to the department is kept current.

(3) The department shall provide the necessary information to calculate excess local excise taxes to each local government that has provided boundary information to the department as provided in this section and that has received approval from the department under RCW 82.32.700 to impose the local option sales and use tax authorized in RCW 82.14.465.

(4) The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.

(a) "Base year" means the calendar year immediately following the creation of a benefit zone.

(b) "Excess local excise taxes" means the amount of local excise taxes received by the local government during the measurement year from taxable activity within the benefit zone over and above the amount of local excise taxes received by the local government during the base year from taxable activity within the benefit zone. However, if a local government creates the benefit zone and reasonably determines that no activity subject to tax under chapters 82.08 and 82.12 RCW occurred in the twelve months immediately preceding the creation of the benefit zone within the boundaries of the area that became the benefit zone, "excess local excise taxes" means the entire amount of local excise taxes received by the local government during a calendar year period beginning with the calendar year immediately following the creation of the benefit zone and continuing with each measurement year thereafter.

(c) "Local excise taxes" means local (~~retail~~) revenues derived from the imposition of sales and use taxes authorized in RCW 82.14.030 at the tax rate that was in effect at the time the hospital benefit zone is approved by the department, except that if a local government reduces the rate of such tax after the revenue development area was approved, "local excise taxes" means the local revenues derived from the imposition of the sales and use taxes authorized in RCW 82.14.030 at the lower tax rate.

(d) "Measurement year" means a calendar year, beginning with the calendar year following the base year and each calendar year thereafter, that is used annually to measure the amount of excess state excise taxes and excess local excise taxes required to be used to finance public improvement costs associated with public improvements financed in whole or in part by hospital benefit zone financing.

Sec. 7. RCW 82.14.465 and 2006 c 111 s 7 are each amended to read as follows:

(1) A city, town, or county that creates a benefit zone and finances public improvements pursuant to chapter 39.100 RCW

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may impose a sales and use tax in accordance with the terms of this chapter and subject to the criteria set forth in this section. Except as provided in this section, the tax is in addition to other taxes authorized by law and shall be collected from those persons who are taxable by the state under chapters 82.08 and 82.12 RCW upon the occurrence of any taxable event within the taxing jurisdiction of the city, town, or county. The rate of tax shall not exceed the rate provided in RCW 82.08.020(1) in the case of a sales tax or the rate provided in RCW 82.12.020(5) in the case of a use tax, less the aggregate rates of any other taxes imposed on the same events that are credited against the state taxes imposed under chapters 82.08 and 82.12 RCW. The tax rate shall be no higher than what is reasonably necessary for the local government to receive its entire annual state contribution in a ten-month period of time.

(2) The tax imposed under subsection (1) of this section shall be deducted from the amount of tax otherwise required to be collected or paid over to the department under chapter 82.08 or 82.12 RCW. The department shall perform the collection of such taxes on behalf of the city, town, or county at no cost to the city, town, or county.

(3) No tax may be imposed under this section before July 1, 2007. Before imposing a tax under this section, the city, town, or county shall first have received tax allocation revenues (~~derived from excess excise taxes~~) during the preceding calendar year. The tax imposed under this section shall expire ~~(when)~~ on the earlier of the date: (a) The tax allocation revenues are no longer used for public improvements and public improvement costs; (b) the bonds issued under the authority of chapter 39.100 RCW are retired, (but not more than) if the bonds are issued; or (c) that is thirty years after the tax is first imposed.

(4) An ordinance adopted by the legislative authority of a city, town, or county imposing a tax under this section shall provide that:

(a) The tax shall first be imposed on the first day of a fiscal year;

(b) The amount of tax received by the local government in any fiscal year shall not exceed the amount of the state contribution;

(c) The tax shall cease to be ~~(imposed)~~ distributed for the remainder of any fiscal year in which either:

(i) The amount of tax ~~(receipts)~~ distributions totals the amount of the state contribution;

(ii) The amount of tax ~~(receipts)~~ distributions totals the amount of ~~(the) local public sources, (as that term is used in RCW 82.14.470)~~ dedicated in the previous calendar year to finance public improvements authorized under chapter 39.100 RCW, expended in the previous year for public improvement costs or used to pay for other bonds issued to pay for public improvements; or

(iii) The amount of revenue from taxes imposed under this section by all cities, towns, and counties totals the annual state credit limit as provided in RCW 82.32.700(3);

(d) The tax shall be ~~(reimposed)~~ distributed again, should it cease to be ~~(imposed)~~ distributed for any of the reasons provided in (c) of this subsection, at the beginning of the next fiscal year, subject to the restrictions in this section; and

(e) Any revenue generated by the tax in excess of the amounts specified in ~~((a);)~~ (b)(c) and (c) of this subsection shall belong to the state of Washington.

(5) If both a county and a city or town impose a tax under this section, the tax imposed by the city, town, or county shall be credited as follows:

(a) If the county has created a benefit zone before the city or town, the tax imposed by the county shall be credited against the tax imposed by the city or town, the purpose of such credit is to give priority to the county tax; and

(b) If the city or town has created a benefit zone before the county, the tax imposed by the city or town shall be credited against the tax imposed by the county, the purpose of such credit is to give priority to the city or town tax.

(6) The department shall determine the amount of tax ~~(receipts)~~ distributions attributable to each city, town, and county imposing a sales and use tax under this section and shall

advise a city, town, or county when ~~(it must cease imposing)~~ the tax will cease to be distributed for the remainder of the fiscal year as provided in subsection (4)(c) of this section. Determinations by the department of the amount of taxes attributable to a city, town, or county are final and shall not be used to challenge the validity of any tax imposed under this section. The department shall remit any tax ~~(receipts)~~ revenues in excess of the amounts specified in subsection ~~(4)((a);)~~ (b)(c) and (c) of this section to the state treasurer who shall deposit the moneys in the general fund.

(7) The definitions in this subsection apply throughout this section and RCW 82.14.470 unless the context clearly requires otherwise.

(a) "Base year" means the calendar year immediately following the creation of a benefit zone.

(b) "Benefit zone" has the same meaning as provided in RCW 39.100.010.

(c) "Excess local excise taxes" has the same meaning as provided in RCW 39.100.050.

(d) "Excess state excise taxes" means the amount of excise taxes received by the state during the measurement year from taxable activity within the benefit zone over and above the amount of excise taxes received by the state during the base year from taxable activity within the benefit zone. However, if a local government creates the benefit zone and reasonably determines that no activity subject to tax under chapters 82.08 and 82.12 RCW occurred in the twelve months immediately preceding the creation of the benefit zone within the boundaries of the area that became the benefit zone, "excess state excise taxes" means the entire amount of state excise taxes ~~(received by)~~ the state receives during a calendar year period beginning with the calendar year immediately following the creation of the benefit zone and continuing with each measurement year thereafter.

(e) "State excise taxes" means ~~(the)~~ revenues derived from state retail sales and use taxes (imposed) under chapters 82.08 and 82.12 RCW, less the amount of tax distributions from all local retail sales and use taxes imposed on the same taxable events that are credited against the state retail sales and use taxes under chapters 82.08 and 82.12 RCW except for the local tax authorized in this section.

(f) "Fiscal year" has the same meaning as provided in RCW 39.100.030.

(g) "Measurement year" means a calendar year, beginning with the calendar year following the base year and each calendar year thereafter, that is used annually to measure the amount of excess state excise taxes and excess local excise taxes ~~(required to be used to finance public improvement costs associated with public improvements financed in whole or in part by hospital benefit zone financing).~~

(h) "State contribution" means the lesser of two million dollars or an amount equal to excess state excise taxes received by the state during the preceding calendar year.

(i) "Tax allocation revenues" has the same meaning as provided in RCW 39.100.010.

(j) "Public improvements" and "public improvement costs" have the same meanings as provided in RCW 39.100.010.

(k) "Local public sources" includes, but is not limited to, private monetary contributions, assessments, dedicated local government funds, and tax allocation revenues. "Local public sources" does not include local government funds derived from any state loan or state grant, any local tax that is credited against the state sales and use taxes, or any other state funds.

Sec. 8. RCW 82.14.470 and 2006 c 111 s 8 are each amended to read as follows:

(1)(a)(i) Moneys collected from the taxes imposed under RCW 82.14.465 shall be used only for the following purposes (of):

(A) Principal and interest payments on bonds issued under the authority of RCW 39.100.060 (and);

(B) Principal and interest payments on other bonds issued by the local government to finance public improvements; or

(C) Payments for public improvement costs.

(ii) Moneys collected and used as provided in (a)(i) of this subsection must be matched with an amount from local public

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sources dedicated through December 31st of the previous calendar year to finance public improvements authorized under chapter 39.100 RCW. ~~((Such local public sources include but are not limited to private monetary contributions and tax allocation revenues.))~~

(b) Local public sources are dedicated to finance public improvements if they: (i) Are actually expended to pay public improvement costs or debt service on bonds issued for public improvements; or (ii) are required by law or an agreement to be used exclusively to pay public improvement costs or debt service on bonds issued for public improvements.

(2) A local government shall inform the department by the first day of March of the amount of local public sources dedicated in the preceding calendar year to finance public improvements authorized under chapter 39.100 RCW.

(3) If a local government fails to comply with subsection (2) of this section, no tax may be imposed under RCW 82.14.465 in the subsequent fiscal year.

(4) A local government shall provide a report to the department and the state auditor by March 1st of each year. A local government shall make a good faith effort to provide information required for the report.

The report shall contain the following information:

(a) The amount of tax allocation revenues, taxes under RCW 82.14.465, and local public sources received by the local government during the preceding calendar year, and a summary of how these revenues were expended; and

(b) The names of any businesses ~~((locating))~~ known to the local government that have located within the benefit zone as a result of the public improvements undertaken by the local government and financed in whole or in part with hospital benefit zone financing(;

~~—(c) The total number of permanent jobs created as a result of the public improvements undertaken by the local government and financed in whole or in part with hospital benefit zone financing; and~~

~~—(d) The average wages and benefits received by all employees of businesses locating within the benefit zone as a result of the public improvements undertaken by the local government and financed in whole or in part with hospital benefit zone financing)).~~

(5) The department shall make a report available to the public and the legislature by June 1st of each year. The report shall include a list of public improvements undertaken by local governments and financed in whole or in part with hospital benefit zone financing, and it shall also include a summary of the information provided to the department by local governments under subsection (4) of this section.

~~((6) The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.~~

~~—(a) "Public improvement costs" has the same meaning as in RCW 39.100.010.~~

~~—(b) "Tax allocation revenues" has the same meaning as provided in RCW 39.100.010.)~~

Sec. 9. RCW 82.32.700 and 2006 c 111 s 9 are each amended to read as follows:

(1) As a condition to imposing a sales and use tax under RCW 82.14.465, a city, town, or county must apply to the department at least seventy-five days before the effective date of any such tax. The application shall be in a form and manner prescribed by the department and shall include but is not limited to information establishing that the applicant is eligible to impose such a tax, the anticipated effective date for imposing the tax, the estimated number of years that the tax will be imposed, and the estimated amount of tax revenue to be received in each fiscal year that the tax will be imposed. For purposes of this section, "fiscal year" means the year beginning July 1st and ending the following June 30th. The department shall make available forms to be used for this purpose. As part of the application, a city, town, or county must provide to the department a copy of the ordinance creating the benefit zone as required in RCW 39.100.040. The department shall rule on completed applications within sixty days of receipt. The department may begin accepting and approving applications August 1, 2006. No new applications shall be considered by the

department after the thirtieth day of September of the third year following the year in which the first application was received by the department.

(2) The authority to impose the local option sales and use taxes under RCW 82.14.465 is on a first-come basis. Priority for collecting the taxes authorized under RCW 82.14.465 among approved applicants shall be based on the date that the approved application was received by the department. As a part of the approval of applications under this section, the department shall approve the amount of tax under RCW 82.14.465 that an applicant may impose. The amount of tax approved by the department shall not exceed the lesser of two million dollars or the average amount of tax revenue that the applicant estimates that it will receive in all fiscal years through the imposition of a sales and use tax under RCW 82.14.465. A city, town, or county shall not receive, in any fiscal year, more revenues from taxes imposed under RCW 82.14.465 than the amount approved by the department. The department shall not approve the receipt of more credit against the state sales and use tax than is authorized under subsection (3) of this section.

(3) No more than two million dollars of credit against the state sales and use tax provided for under RCW 82.14.465(2), may be received in any fiscal year by all cities, towns, and counties imposing a tax under RCW 82.14.465.

~~(4)~~(a) The credit against the state sales and use tax shall be available to any city, town, or county imposing a tax under RCW 82.14.465 only as long as the city, town, or county has outstanding indebtedness under ((RCW 82.14.465)) chapter 39.100 RCW or the tax allocation revenues are used for public improvement costs, but in no case shall the credit be available for more than thirty years after the tax is first imposed by the city, town, or county.

(b) Local governments may pledge any receipts from taxes levied and collected under chapter 39.100 RCW and RCW 82.14.465 to the repayment of its bonds or bond anticipation notes. A local government shall notify the department when all outstanding indebtedness secured in whole or in part from receipts is no longer outstanding or tax allocation revenues are no longer used for public improvement costs, and the credit provided for under RCW 82.14.465 shall be terminated.

(5) The department may adopt any rules under chapter 34.05 RCW it considers necessary for the administration of chapter 39.100 RCW.

NEW SECTION. Sec. 10. This act applies retroactively to July 1, 2006.

NEW SECTION. Sec. 11. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect July 1, 2007." and the same are herewith transmitted.

RICHARD NAFZIGER, Chief Clerk

MOTION

Senator Kilmer moved that the Senate concur in the House amendment(s) to Senate Bill No. 5512.

Senator Kilmer spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Kilmer that the Senate concur in the House amendment(s) to Senate Bill No. 5512.

The motion by Senator Kilmer carried and the Senate concurred in the House amendment(s) to Senate Bill No. 5512 by voice vote.

The President declared the question before the Senate to be the final passage of Senate Bill No. 5512, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 5512, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

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Voting yea: Senators Benton, Berkey, Brandland, Brown, Carrell, Clements, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, Morton, Murray, Oemig, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Tom, Weinstein and Zarelli - 49

SENATE BILL NO. 5512, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

April 3, 2007

MR. PRESIDENT:

The House has passed ENGROSSED SUBSTITUTE SENATE BILL NO. 5290, with the following amendment: 5290-S.E AMH CL H3085.4

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. A new section is added to chapter 51.36 RCW to read as follows:

(1) The department shall establish an industrial insurance medical advisory committee. The industrial insurance medical advisory committee shall advise the department on matters related to the provision of safe, effective, and cost-effective treatments for injured workers, including but not limited to the development of practice guidelines and coverage criteria, review of coverage decisions and technology assessments, review of medical programs, and review of rules pertaining to health care issues. The industrial insurance medical advisory committee may provide peer review and advise and assist the department in the resolution of controversies, disputes, and problems between the department and the providers of medical care. The industrial insurance medical advisory committee must consider the best available scientific evidence and expert opinion of committee members. The department may hire any expert or service or create an ad hoc committee, group, or subcommittee it deems necessary to fulfill the purposes of the industrial insurance medical advisory committee. In addition, the industrial insurance medical advisory committee may consult nationally recognized experts in evidence-based health care on particularly controversial issues.

(2) The industrial insurance medical advisory committee is composed of up to fourteen members appointed by the director. The members must not include any department employees. The director shall select twelve members from the nominations provided by statewide clinical groups, specialties, and associations, including but not limited to the following: Family or general practice, orthopedics, neurology, neurosurgery, general surgery, physical medicine and rehabilitation, psychiatry, internal medicine, osteopathic, pain management, and occupational medicine. At least two members must be physicians who are recognized for expertise in evidence-based medicine. The director may choose up to two additional members, not necessarily from the nominations submitted, who have expertise in occupational medicine.

(3) The industrial insurance medical advisory committee shall choose its chair from among its membership.

(4) The members of the industrial insurance medical advisory committee, including hired experts and any ad hoc group or subcommittee: (a) Are immune from civil liability for any official acts performed in good faith to further the purposes of the industrial insurance medical advisory committee; and (b) may be compensated for participation in the work of the industrial insurance medical advisory committee in accordance with a personal services contract to be executed after

appointment and before commencement of activities related to the work of the industrial insurance medical advisory committee.

(5) The members of the industrial insurance medical advisory committee shall disclose all potential financial conflicts of interest including contracts with or employment by a manufacturer, provider, or vendor of health technologies, drugs, medical devices, diagnostic tools, or other medical services during their term or for eighteen months before their appointment. As a condition of appointment, each person must agree to the terms and conditions regarding conflicts of interest as determined by the director.

(6) The industrial insurance medical advisory committee shall meet at the times and places designated by the director and hold meetings during the year as necessary to provide advice to the director. Meetings of the industrial insurance medical advisory committee are subject to chapter 42.30 RCW, the open public meetings act.

(7) The industrial insurance medical advisory committee shall coordinate with the state health technology assessment program and state prescription drug program as necessary. As provided by RCW 70.14.100 and 70.14.050, the decisions of the state health technology assessment program and those of the state prescription drug program hold greater weight than decisions made by the department's industrial insurance medical advisory committee under Title 51 RCW.

(8) Neither the industrial insurance medical advisory committee nor any group is an agency for purposes of chapter 34.05 RCW.

(9) The department shall provide administrative support to the industrial insurance medical advisory committee and adopt rules to carry out the purposes of this section.

(10) The chair and ranking minority member of the house of representatives commerce and labor committee or the chair and ranking minority member of the senate labor, commerce, research and development committee, or successor committees, may request that the industrial insurance medical advisory committee review a medical issue related to industrial insurance and provide a written report to the house of representatives commerce and labor committee and the senate labor, commerce, research and development committee, or successor committees. The industrial insurance medical advisory committee is not required to act on the request.

(11) The workers' compensation advisory committee may request that the industrial insurance medical advisory committee consider specific medical issues that have arisen multiple times during the work of the workers' compensation advisory committee. The industrial insurance medical advisory committee is not required to act on the request.

NEW SECTION. Sec. 2. A new section is added to chapter 51.36 RCW to read as follows:

(1) The department shall establish an industrial insurance chiropractic advisory committee. The industrial insurance chiropractic advisory committee shall advise the department on matters related to the provision of safe, effective, and cost-effective chiropractic treatments for injured workers. The industrial insurance chiropractic advisory committee may provide peer review and advise and assist the department in the resolution of controversies, disputes, and problems between the department and the providers of chiropractic care.

(2) The industrial insurance chiropractic advisory committee is composed of up to nine members appointed by the director. The members must not include any department employees. The director must consider nominations from recognized statewide chiropractic groups such as the Washington state chiropractic association. At least two members must be chiropractors who are recognized for expertise in evidence-based practice or occupational health.

(3) The industrial insurance chiropractic advisory committee shall choose its chair from among its membership.

(4) The members of the industrial insurance chiropractic advisory committee and any ad hoc group or subcommittee: (a) Are immune from civil liability for any official acts performed in good faith to further the purposes of the industrial insurance chiropractic advisory committee; and (b) may be compensated for participation in the work of the industrial insurance

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chiropractic advisory committee in accordance with a personal services contract to be executed after appointment and before commencement of activities related to the work of the industrial insurance chiropractic advisory committee.

(5) The members of the industrial insurance chiropractic advisory committee shall disclose all potential financial conflicts of interest including contracts with or employment by a manufacturer, provider, or vendor of health technologies, drugs, medical devices, diagnostic tools, or other medical services during their term or for eighteen months before their appointment. As a condition of appointment, each person must agree to the terms and conditions regarding conflicts of interest as determined by the director.

(6) The industrial insurance chiropractic advisory committee shall meet at the times and places designated by the director and hold meetings during the year as necessary to provide advice to the director. Meetings of the industrial insurance chiropractic advisory committee are subject to chapter 42.30 RCW, the open public meetings act.

(7) The industrial insurance chiropractic advisory committee shall coordinate with the state health technology assessment program and state prescription drug program as necessary. As provided by RCW 70.14.100 and 70.14.050, the decisions of the state health technology assessment program and those of the state prescription drug program hold greater weight than decisions made by the department's industrial insurance chiropractic advisory committee under Title 51 RCW.

(8) Neither the industrial insurance chiropractic advisory committee nor any group is an agency for purposes of chapter 34.05 RCW.

(9) The department shall provide administrative support to the industrial insurance chiropractic advisory committee and adopt rules to carry out the purposes of this section.

(10) The chair and ranking minority member of the house of representatives commerce and labor committee or the chair and ranking minority member of the senate labor, commerce, research and development committee, or successor committees, may request that the industrial insurance chiropractic advisory committee review a medical issue related to industrial insurance and provide a written report to the house of representatives commerce and labor committee and the senate labor, commerce, research and development committee, or successor committees. The industrial insurance chiropractic advisory committee is not required to act on the request.

(11) The workers' compensation advisory committee may request that the industrial insurance chiropractic advisory committee consider specific medical issues that have arisen multiple times during the work of the workers' compensation advisory committee. The industrial insurance chiropractic advisory committee is not required to act on the request.

NEW SECTION. Sec. 3. The director, the industrial insurance medical advisory committee, and the industrial insurance chiropractic advisory committee shall report to the appropriate committees of the legislature on the following:

(1) A summary of the types of issues reviewed by the industrial insurance medical advisory committee and the industrial insurance chiropractic advisory committee and decisions in each matter;

(2) Whether the industrial insurance medical advisory committee or the industrial insurance chiropractic advisory committee became involved in the resolution of any disputes or controversies and the results of those disputes or controversies as a result of the involvement of the industrial insurance medical advisory committee or the industrial insurance chiropractic advisory committee;

(3) The extent to which the industrial insurance medical advisory committee and the industrial insurance chiropractic advisory committee conducted any peer reviews and the results of those reviews;

(4) The extent of any practice guidelines or coverage criteria developed by the industrial insurance medical advisory committee or the industrial insurance chiropractic advisory committee and the success of those developments; and

(5) The extent to which the industrial insurance medical advisory committee and the industrial insurance chiropractic

advisory committee provided advice on coverage decisions and technology assessments.

The report is due no later than June 30, 2011, and must contain a recommendation about whether the industrial insurance medical advisory committee and the industrial insurance chiropractic advisory committee should continue as originally configured or whether any changes are needed." and the same are herewith transmitted.

RICHARD NAFZIGER, Chief Clerk

MOTION

Senator Keiser moved that the Senate concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 5290.

Senators Keiser and Clements spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Keiser that the Senate concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 5290.

The motion by Senator Keiser carried and the Senate concurred in the House amendment(s) to Engrossed Substitute Senate Bill No. 5290 by voice vote.

MOTION

On motion of Senator Regala, Senators Brown and Pridemore were excused.

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 5290, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 5290, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Benton, Berkey, Brandland, Carrell, Clements, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, Morton, Murray, Oemig, Parlette, Pflug, Poulsen, Prentice, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Tom, Weinstein and Zarelli - 47

Excused: Senators Brown and Pridemore - 2

ENGROSSED SUBSTITUTE SENATE BILL NO. 5290, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

April 5, 2007

MR. PRESIDENT:

The House has passed SUBSTITUTE SENATE BILL NO. 5321, with the following amendment: 5321-S AMH ELCS H3226.2

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 26.44.020 and 2006 c 339 s 108 are each amended to read as follows:

The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

~~((1) "Court" means the superior court of the state of Washington, juvenile department.~~

~~(2) "Law enforcement agency" means the police department, the prosecuting attorney, the state patrol, the director of public safety, or the office of the sheriff.~~

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— (3) "Practitioner of the healing arts" or "practitioner" means a person licensed by this state to practice podiatric medicine and surgery, optometry, chiropractic, nursing, dentistry, osteopathic medicine and surgery, or medicine and surgery or to provide other health services. The term "practitioner" includes a duly accredited Christian Science practitioner. ~~PROVIDED; HOWEVER, That a person who is being furnished Christian Science treatment by a duly accredited Christian Science practitioner will not be considered, for that reason alone, a neglected person for the purposes of this chapter.~~

— (4) "Institution" means a private or public hospital or any other facility providing medical diagnosis, treatment or care.

— (5) "Department" means the state department of social and health services.

— (6) "Child" or "children" means any person under the age of eighteen years of age.

— (7) "Professional school personnel" include, but are not limited to, teachers, counselors, administrators, child care facility personnel, and school nurses.

— (8) "Social service counselor" means anyone engaged in a professional capacity during the regular course of employment in encouraging or promoting the health, welfare, support or education of children, or providing social services to adults or families, including mental health, drug and alcohol treatment, and domestic violence programs, whether in an individual capacity, or as an employee or agent of any public or private organization or institution.

— (9) "Psychologist" means any person licensed to practice psychology under chapter 18.83 RCW, whether acting in an individual capacity or as an employee or agent of any public or private organization or institution.

— (10) "Pharmacist" means any registered pharmacist under chapter 18.64 RCW, whether acting in an individual capacity or as an employee or agent of any public or private organization or institution.

— (11) "Clergy" means any regularly licensed or ordained minister, priest, or rabbi of any church or religious denomination, whether acting in an individual capacity or as an employee or agent of any public or private organization or institution.

— (12) "Abuse or neglect" means sexual abuse, sexual exploitation, or injury of a child by any person under circumstances which cause harm to the child's health, welfare, or safety, excluding conduct permitted under RCW 9A.16.100; or the negligent treatment or maltreatment of a child by a person responsible for or providing care to the child. An abused child is a child who has been subjected to child abuse or neglect as defined in this section.

— (13) "Child protective services section" means the child protective services section of the department.

— (14) "Sexual exploitation" includes: (a) Allowing, permitting, or encouraging a child to engage in prostitution by any person; or (b) allowing, permitting, encouraging, or engaging in the obscene or pornographic photographing, filming, or depicting of a child by any person.

— (15) "Negligent treatment or maltreatment" means an act or a failure to act, or the cumulative effects of a pattern of conduct, behavior, or inaction, that evidences a serious disregard of consequences of such magnitude as to constitute a clear and present danger to a child's health, welfare, or safety, including but not limited to conduct prohibited under RCW 9A.42.100. When considering whether a clear and present danger exists, evidence of a parent's substance abuse as a contributing factor to negligent treatment or maltreatment shall be given great weight. The fact that siblings share a bedroom is not, in and of itself, negligent treatment or maltreatment. Poverty, homelessness, or exposure to domestic violence as defined in RCW 26.50.010 that is perpetrated against someone other than the child does not constitute negligent treatment or maltreatment in and of itself.

— (16) "Child protective services" means those services provided by the department designed to protect children from child abuse and neglect and safeguard such children from future abuse and neglect, and conduct investigations of child abuse and neglect reports. Investigations may be conducted regardless of the location of the alleged abuse or neglect. Child protective

services includes referral to services to ameliorate conditions that endanger the welfare of children, the coordination of necessary programs and services relevant to the prevention, intervention, and treatment of child abuse and neglect, and services to children to ensure that each child has a permanent home. In determining whether protective services should be provided, the department shall not decline to provide such services solely because of the child's unwillingness or developmental inability to describe the nature and severity of the abuse or neglect.

— (17) "Malice" or "maliciously" means an evil intent, wish, or design to vex, annoy, or injure another person. Such malice may be inferred from an act done in willful disregard of the rights of another, or an act wrongfully done without just cause or excuse, or an act or omission of duty betraying a willful disregard of social duty.

— (18) "Sexually aggressive youth" means a child who is defined in RCW 74.13.075(1)(b) as being a sexually aggressive youth.

— (19) "Unfounded" means available information indicates that, more likely than not, child abuse or neglect did not occur. No unfounded allegation of child abuse or neglect may be disclosed to a child-placing agency, private adoption agency, or any other provider licensed under chapter 74.15 RCW.)

(1) "Abuse or neglect" means sexual abuse, sexual exploitation, or injury of a child by any person under circumstances which cause harm to the child's health, welfare, or safety, excluding conduct permitted under RCW 9A.16.100; or the negligent treatment or maltreatment of a child by a person responsible for or providing care to the child. An abused child is a child who has been subjected to child abuse or neglect as defined in this section.

(2) "Child" or "children" means any person under the age of eighteen years of age.

(3) "Child protective services" means those services provided by the department designed to protect children from child abuse and neglect and safeguard such children from future abuse and neglect, and conduct investigations of child abuse and neglect reports. Investigations may be conducted regardless of the location of the alleged abuse or neglect. Child protective services includes referral to services to ameliorate conditions that endanger the welfare of children, the coordination of necessary programs and services relevant to the prevention, intervention, and treatment of child abuse and neglect, and services to children to ensure that each child has a permanent home. In determining whether protective services should be provided, the department shall not decline to provide such services solely because of the child's unwillingness or developmental inability to describe the nature and severity of the abuse or neglect.

(4) "Child protective services section" means the child protective services section of the department.

(5) "Clergy" means any regularly licensed or ordained minister, priest, or rabbi of any church or religious denomination, whether acting in an individual capacity or as an employee or agent of any public or private organization or institution.

(6) "Court" means the superior court of the state of Washington, juvenile department.

(7) "Department" means the state department of social and health services.

(8) "Founded" means the determination following an investigation by the department that, based on available information, it is more likely than not that child abuse or neglect did occur.

(9) "Inconclusive" means the determination following an investigation by the department, prior to the effective date of this section, that based on available information a decision cannot be made that more likely than not, child abuse or neglect did or did not occur.

(10) "Institution" means a private or public hospital or any other facility providing medical diagnosis, treatment, or care.

(11) "Law enforcement agency" means the police department, the prosecuting attorney, the state patrol, the director of public safety, or the office of the sheriff.

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(12) "Malice" or "maliciously" means an intent, wish, or design to intimidate, annoy, or injure another person. Such malice may be inferred from an act done in willful disregard of the rights of another, or an act wrongfully done without just cause or excuse, or an act or omission of duty betraying a willful disregard of social duty.

(13) "Negligent treatment or maltreatment" means an act or a failure to act, or the cumulative effects of a pattern of conduct, behavior, or inaction, that evidences a serious disregard of consequences of such magnitude as to constitute a clear and present danger to a child's health, welfare, or safety, including but not limited to conduct prohibited under RCW 9A.42.100. When considering whether a clear and present danger exists, evidence of a parent's substance abuse as a contributing factor to negligent treatment or maltreatment shall be given great weight. The fact that siblings share a bedroom is not, in and of itself, negligent treatment or maltreatment. Poverty, homelessness, or exposure to domestic violence as defined in RCW 26.50.010 that is perpetrated against someone other than the child does not constitute negligent treatment or maltreatment in and of itself.

(14) "Pharmacist" means any registered pharmacist under chapter 18.64 RCW, whether acting in an individual capacity or as an employee or agent of any public or private organization or institution.

(15) "Practitioner of the healing arts" or "practitioner" means a person licensed by this state to practice podiatric medicine and surgery, optometry, chiropractic, nursing, dentistry, osteopathic medicine and surgery, or medicine and surgery or to provide other health services. The term "practitioner" includes a duly accredited Christian Science practitioner: PROVIDED, HOWEVER, That a person who is being furnished Christian Science treatment by a duly accredited Christian Science practitioner will not be considered, for that reason alone, a neglected person for the purposes of this chapter.

(16) "Professional school personnel" include, but are not limited to, teachers, counselors, administrators, child care facility personnel, and school nurses.

(17) "Psychologist" means any person licensed to practice psychology under chapter 18.83 RCW, whether acting in an individual capacity or as an employee or agent of any public or private organization or institution.

(18) "Screened-out report" means a report of alleged child abuse or neglect that the department has determined does not rise to the level of a credible report of abuse or neglect and is not referred for investigation.

(19) "Sexual exploitation" includes: (a) Allowing, permitting, or encouraging a child to engage in prostitution by any person; or (b) allowing, permitting, encouraging, or engaging in the obscene or pornographic photographing, filming, or depicting of a child by any person.

(20) "Sexually aggressive youth" means a child who is defined in RCW 74.13.075(1)(b) as being a sexually aggressive youth.

(21) "Social service counselor" means anyone engaged in a professional capacity during the regular course of employment in encouraging or promoting the health, welfare, support or education of children, or providing social services to adults or families, including mental health, drug and alcohol treatment, and domestic violence programs, whether in an individual capacity, or as an employee or agent of any public or private organization or institution.

(22) "Unfounded" means the determination following an investigation by the department that available information indicates that, more likely than not, child abuse or neglect did not occur, or that there is insufficient evidence for the department to determine whether the alleged child abuse did or did not occur.

Sec. 2. RCW 26.44.030 and 2005 c 417 s 1 are each amended to read as follows:

(1)(a) When any practitioner, county coroner or medical examiner, law enforcement officer, professional school personnel, registered or licensed nurse, social service counselor, psychologist, pharmacist, licensed or certified child care providers or their employees, employee of the department, juvenile probation officer, placement and liaison specialist,

responsible living skills program staff, HOPE center staff, or state family and children's ombudsman or any volunteer in the ombudsman's office has reasonable cause to believe that a child has suffered abuse or neglect, he or she shall report such incident, or cause a report to be made, to the proper law enforcement agency or to the department as provided in RCW 26.44.040.

(b) When any person, in his or her official supervisory capacity with a nonprofit or for-profit organization, has reasonable cause to believe that a child has suffered abuse or neglect caused by a person over whom he or she regularly exercises supervisory authority, he or she shall report such incident, or cause a report to be made, to the proper law enforcement agency, provided that the person alleged to have caused the abuse or neglect is employed by, contracted by, or volunteers with the organization and coaches, trains, educates, or counsels a child or children or regularly has unsupervised access to a child or children as part of the employment, contract, or voluntary service. No one shall be required to report under this section when he or she obtains the information solely as a result of a privileged communication as provided in RCW 5.60.060.

Nothing in this subsection (1)(b) shall limit a person's duty to report under (a) of this subsection.

For the purposes of this subsection, the following definitions apply:

(i) "Official supervisory capacity" means a position, status, or role created, recognized, or designated by any nonprofit or for-profit organization, either for financial gain or without financial gain, whose scope includes, but is not limited to, overseeing, directing, or managing another person who is employed by, contracted by, or volunteers with the nonprofit or for-profit organization.

(ii) "Regularly exercises supervisory authority" means to act in his or her official supervisory capacity on an ongoing or continuing basis with regards to a particular person.

(c) The reporting requirement also applies to department of corrections personnel who, in the course of their employment, observe offenders or the children with whom the offenders are in contact. If, as a result of observations or information received in the course of his or her employment, any department of corrections personnel has reasonable cause to believe that a child has suffered abuse or neglect, he or she shall report the incident, or cause a report to be made, to the proper law enforcement agency or to the department as provided in RCW 26.44.040.

(d) The reporting requirement shall also apply to any adult who has reasonable cause to believe that a child who resides with them, has suffered severe abuse, and is able or capable of making a report. For the purposes of this subsection, "severe abuse" means any of the following: Any single act of abuse that causes physical trauma of sufficient severity that, if left untreated, could cause death; any single act of sexual abuse that causes significant bleeding, deep bruising, or significant external or internal swelling; or more than one act of physical abuse, each of which causes bleeding, deep bruising, significant external or internal swelling, bone fracture, or unconsciousness.

(e) The report must be made at the first opportunity, but in no case longer than forty-eight hours after there is reasonable cause to believe that the child has suffered abuse or neglect. The report must include the identity of the accused if known.

(2) The reporting requirement of subsection (1) of this section does not apply to the discovery of abuse or neglect that occurred during childhood if it is discovered after the child has become an adult. However, if there is reasonable cause to believe other children are or may be at risk of abuse or neglect by the accused, the reporting requirement of subsection (1) of this section does apply.

(3) Any other person who has reasonable cause to believe that a child has suffered abuse or neglect may report such incident to the proper law enforcement agency or to the department of social and health services as provided in RCW 26.44.040.

(4) The department, upon receiving a report of an incident of alleged abuse or neglect pursuant to this chapter, involving a

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child who has died or has had physical injury or injuries inflicted upon him or her other than by accidental means or who has been subjected to alleged sexual abuse, shall report such incident to the proper law enforcement agency. In emergency cases, where the child's welfare is endangered, the department shall notify the proper law enforcement agency within twenty-four hours after a report is received by the department. In all other cases, the department shall notify the law enforcement agency within seventy-two hours after a report is received by the department. If the department makes an oral report, a written report must also be made to the proper law enforcement agency within five days thereafter.

(5) Any law enforcement agency receiving a report of an incident of alleged abuse or neglect pursuant to this chapter, involving a child who has died or has had physical injury or injuries inflicted upon him or her other than by accidental means, or who has been subjected to alleged sexual abuse, shall report such incident in writing as provided in RCW 26.44.040 to the proper county prosecutor or city attorney for appropriate action whenever the law enforcement agency's investigation reveals that a crime may have been committed. The law enforcement agency shall also notify the department of all reports received and the law enforcement agency's disposition of them. In emergency cases, where the child's welfare is endangered, the law enforcement agency shall notify the department within twenty-four hours. In all other cases, the law enforcement agency shall notify the department within seventy-two hours after a report is received by the law enforcement agency.

(6) Any county prosecutor or city attorney receiving a report under subsection (5) of this section shall notify the victim, any persons the victim requests, and the local office of the department, of the decision to charge or decline to charge a crime, within five days of making the decision.

(7) The department may conduct ongoing case planning and consultation with those persons or agencies required to report under this section, with consultants designated by the department, and with designated representatives of Washington Indian tribes if the client information exchanged is pertinent to cases currently receiving child protective services. Upon request, the department shall conduct such planning and consultation with those persons required to report under this section if the department determines it is in the best interests of the child. Information considered privileged by statute and not directly related to reports required by this section must not be divulged without a valid written waiver of the privilege.

(8) Any case referred to the department by a physician licensed under chapter 18.57 or 18.71 RCW on the basis of an expert medical opinion that child abuse, neglect, or sexual assault has occurred and that the child's safety will be seriously endangered if returned home, the department shall file a dependency petition unless a second licensed physician of the parents' choice believes that such expert medical opinion is incorrect. If the parents fail to designate a second physician, the department may make the selection. If a physician finds that a child has suffered abuse or neglect but that such abuse or neglect does not constitute imminent danger to the child's health or safety, and the department agrees with the physician's assessment, the child may be left in the parents' home while the department proceeds with reasonable efforts to remedy parenting deficiencies.

(9) Persons or agencies exchanging information under subsection (7) of this section shall not further disseminate or release the information except as authorized by state or federal statute. Violation of this subsection is a misdemeanor.

(10) Upon receiving a report((s)) of alleged abuse or neglect, the department shall make reasonable efforts to learn the name, address, and telephone number of each person making a report of abuse or neglect under this section. The department shall provide assurances of appropriate confidentiality of the identification of persons reporting under this section. If the department is unable to learn the information required under this subsection, the department shall only investigate cases in which:

(a) The department believes there is a serious threat of substantial harm to the child;

(b) The report indicates conduct involving a criminal offense that has, or is about to occur, in which the child is the victim; or

(c) The department has a prior founded report of abuse or neglect with regard to a member of the household that is within three years of receipt of the referral.

((11)(a) For reports of alleged abuse or neglect that are accepted for investigation by the department, the investigation shall be conducted within time frames established by the department in rule. In no case shall the investigation extend longer than ninety days from the date the report is received, unless the investigation is being conducted under a written protocol pursuant to RCW 26.44.180 and a law enforcement agency or prosecuting attorney has determined that a longer investigation period is necessary. At the completion of the investigation, the department shall make a finding that the report of child abuse or neglect is founded or unfounded.

(b) If a court in a civil or criminal proceeding, considering the same facts or circumstances as are contained in the report being investigated by the department, makes a judicial finding by a preponderance of the evidence or higher that the subject of the pending investigation has abused or neglected the child, the department shall adopt the finding in its investigation.

(12) In conducting an investigation of alleged abuse or neglect, the department or law enforcement agency:

(a) May interview children. The interviews may be conducted on school premises, at day-care facilities, at the child's home, or at other suitable locations outside of the presence of parents. Parental notification of the interview must occur at the earliest possible point in the investigation that will not jeopardize the safety or protection of the child or the course of the investigation. Prior to commencing the interview the department or law enforcement agency shall determine whether the child wishes a third party to be present for the interview and, if so, shall make reasonable efforts to accommodate the child's wishes. Unless the child objects, the department or law enforcement agency shall make reasonable efforts to include a third party in any interview so long as the presence of the third party will not jeopardize the course of the investigation((-

(11) Upon receiving a report of alleged child abuse and neglect, the department or investigating law enforcement agency); and

(b) Shall have access to all relevant records of the child in the possession of mandated reporters and their employees.

((+2)) (13) The department shall maintain investigation records and conduct timely and periodic reviews of all founded cases (~~constituting~~) of abuse and neglect. The department shall maintain a log of screened-out nonabusive cases.

((+3)) (14) The department shall use a risk assessment process when investigating alleged child abuse and neglect referrals. The department shall present the risk factors at all hearings in which the placement of a dependent child is an issue. Substance abuse must be a risk factor. The department shall, within funds appropriated for this purpose, offer enhanced community-based services to persons who are determined not to require further state intervention.

((+4)) (15) Upon receipt of a report of alleged abuse or neglect the law enforcement agency may arrange to interview the person making the report and any collateral sources to determine if any malice is involved in the reporting.

((+5) The department shall make reasonable efforts to learn the name, address, and telephone number of each person making a report of abuse or neglect under this section. The department shall provide assurances of appropriate confidentiality of the identification of persons reporting under this section. If the department is unable to learn the information required under this subsection, the department shall only investigate cases in which:

(a) The department believes there is a serious threat of substantial harm to the child; (b) the report indicates conduct involving a criminal offense that has, or is about to occur, in which the child is the victim; or (c) the department has, after investigation, a report of abuse or neglect that has been founded with regard to a member of the household within three years of receipt of the referral.))

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Sec. 3. RCW 26.44.031 and 1997 c 282 s 1 are each amended to read as follows:

(1) To protect the privacy in reporting and the maintenance of reports of nonaccidental injury, neglect, death, sexual abuse, and cruelty to children by their parents, and to safeguard against arbitrary, malicious, or erroneous information or actions, the department shall not disclose or maintain information related to ((unfounded referrals in files or)) reports of child abuse or neglect ((for longer than six years)) except as provided in this section or as otherwise required by state and federal law.

((At the end of six years from receipt of the unfounded report, the information shall be purged unless an additional report has been received in the intervening period.))

(2) The department shall destroy all of its records concerning:

(a) A screened-out report, within three years from the receipt of the report; and

(b) An unfounded or inconclusive report, within six years of completion of the investigation, unless a prior or subsequent founded report has been received regarding the child who is the subject of the report, a sibling or half-sibling of the child, or a parent, guardian, or legal custodian of the child, before the records are destroyed.

(3) The department may keep records concerning founded reports of child abuse or neglect as the department determines by rule.

(4) An unfounded, screened-out, or inconclusive report may not be disclosed to a child-placing agency, private adoption agency, or any other provider licensed under chapter 74.15 RCW.

(5)(a) If the department fails to comply with this section, an individual who is the subject of a report may institute proceedings for injunctive or other appropriate relief for enforcement of the requirement to purge information. These proceedings may be instituted in the superior court for the county in which the person resides or, if the person is not then a resident of this state, in the superior court for Thurston county.

(b) If the department fails to comply with subsection (4) of this section and an individual who is the subject of the report is harmed by the disclosure of information, in addition to the relief provided in (a) of this subsection, the court may award a penalty of up to one thousand dollars and reasonable attorneys' fees and court costs to the petitioner.

(c) A proceeding under this subsection does not preclude other methods of enforcement provided for by law.

(6) Nothing in this section shall prevent the department from retaining general, nonidentifying information which is required for state and federal reporting and management purposes.

Sec. 4. RCW 74.13.280 and 2001 c 318 s 3 are each amended to read as follows:

(1) Except as provided in RCW 70.24.105, whenever a child is placed in out-of-home care by the department or a child-placing agency, the department or agency shall share information known to the department or agency about the child and the child's family with the care provider and shall consult with the care provider regarding the child's case plan. If the child is dependent pursuant to a proceeding under chapter 13.34 RCW, the department or agency shall keep the care provider informed regarding the dates and location of dependency review and permanency planning hearings pertaining to the child.

(2) Information about the child and the child's family shall include information known to the department or agency as to whether the child is a sexually reactive child, has exhibited high-risk behaviors, or is physically assaultive or physically aggressive, as defined in this section.

(3) Information about the child shall also include information known to the department or agency that the child:

(a) Has received a medical diagnosis of fetal alcohol syndrome or fetal alcohol effect;

(b) Has been diagnosed by a qualified mental health professional as having a mental health disorder;

(c) Has witnessed a death or substantial physical violence in the past or recent past; or

(d) Was a victim of sexual or severe physical abuse in the recent past.

(4) Any person who receives information about a child or a child's family pursuant to this section shall keep the information confidential and shall not further disclose or disseminate the information except as authorized by law.

~~((3))~~ (5) Nothing in this section shall be construed to limit the authority of the department or child-placing agencies to disclose client information or to maintain client confidentiality as provided by law.

(6) As used in this section:

(a) "Sexually reactive child" means a child who exhibits sexual behavior problems including, but not limited to, sexual behaviors that are developmentally inappropriate for their age or are harmful to the child or others.

(b) "High-risk behavior" means an observed or reported and documented history of one or more of the following:

(i) Suicide attempts or suicidal behavior or ideation;

(ii) Self-mutilation or similar self-destructive behavior;

(iii) Fire-setting or a developmentally inappropriate fascination with fire;

(iv) Animal torture;

(v) Property destruction; or

(vi) Substance or alcohol abuse.

(c) "Physically assaultive or physically aggressive" means a child who exhibits one or more of the following behaviors that are developmentally inappropriate and harmful to the child or to others:

(i) Observed assaultive behavior;

(ii) Reported and documented history of the child willfully assaulting or inflicting bodily harm; or

(iii) Attempting to assault or inflict bodily harm on other children or adults under circumstances where the child has the apparent ability or capability to carry out the attempted assaults including threats to use a weapon.

NEW SECTION. Sec. 5. A new section is added to chapter 74.13 RCW to read as follows:

(1) A care provider may not be found to have abused or neglected a child under chapter 26.44 RCW or be denied a license pursuant to chapter 74.15 RCW and RCW 74.13.031 for any allegations of failure to supervise wherein:

(a) The allegations arise from the child's conduct that is substantially similar to prior behavior of the child, and:

(i) The child is a sexually reactive youth, exhibits high-risk behaviors, or is physically assaultive or physically aggressive as defined in RCW 74.13.280, and this information and the child's prior behavior was not disclosed to the care provider as required by RCW 74.13.280; and

(ii) The care provider did not know or have reason to know that the child needed supervision as a sexually reactive or physically assaultive or physically aggressive youth, or because of a documented history of high-risk behaviors, as a result of the care provider's involvement with or independent knowledge of the child or training and experience; or

(b) The child was not within the reasonable control of the care provider at the time of the incident that is the subject of the allegation, and the care provider was acting in good faith and did not know or have reason to know that reasonable control or supervision of the child was necessary to prevent harm or risk of harm to the child or other persons.

(2) Allegations of child abuse or neglect that meet the provisions of this section shall be designated as "unfounded" as defined in RCW 26.44.020.

Sec. 6. RCW 74.15.130 and 2006 c 265 s 404 are each amended to read as follows:

(1) An agency may be denied a license, or any license issued pursuant to chapter 74.15 RCW and RCW 74.13.031 may be suspended, revoked, modified, or not renewed by the secretary upon proof (a) that the agency has failed or refused to comply with the provisions of chapter 74.15 RCW and RCW 74.13.031 or the requirements promulgated pursuant to the provisions of chapter 74.15 RCW and RCW 74.13.031; or (b) that the conditions required for the issuance of a license under chapter 74.15 RCW and RCW 74.13.031 have ceased to exist with respect to such licenses. RCW 43.20A.205 governs notice of a license denial, revocation, suspension, or modification and provides the right to an adjudicative proceeding.

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(2) In any adjudicative proceeding regarding the denial, modification, suspension, or revocation of a foster family home license, the department's decision shall be upheld if there is reasonable cause to believe that:

(a) The applicant or licensee lacks the character, suitability, or competence to care for children placed in out-of-home care, however, no unfounded, inconclusive, or screened-out report of child abuse or neglect may be used to deny employment or a license;

(b) The applicant or licensee has failed or refused to comply with any provision of chapter 74.15 RCW, RCW 74.13.031, or the requirements adopted pursuant to such provisions; or

(c) The conditions required for issuance of a license under chapter 74.15 RCW and RCW 74.13.031 have ceased to exist with respect to such licenses.

(3) In any adjudicative proceeding regarding the denial, modification, suspension, or revocation of any license under this chapter, other than a foster family home license, the department's decision shall be upheld if it is supported by a preponderance of the evidence.

(4) The department may assess civil monetary penalties upon proof that an agency has failed or refused to comply with the rules adopted under the provisions of this chapter and RCW 74.13.031 or that an agency subject to licensing under this chapter and RCW 74.13.031 is operating without a license except that civil monetary penalties shall not be levied against a licensed foster home. Monetary penalties levied against unlicensed agencies that submit an application for licensure within thirty days of notification and subsequently become licensed will be forgiven. These penalties may be assessed in addition to or in lieu of other disciplinary actions. Civil monetary penalties, if imposed, may be assessed and collected, with interest, for each day an agency is or was out of compliance. Civil monetary penalties shall not exceed two hundred fifty dollars per violation for group homes and child-placing agencies. Each day upon which the same or substantially similar action occurs is a separate violation subject to the assessment of a separate penalty. The department shall provide a notification period before a monetary penalty is effective and may forgive the penalty levied if the agency comes into compliance during this period. The department may suspend, revoke, or not renew a license for failure to pay a civil monetary penalty it has assessed pursuant to this chapter within ten days after such assessment becomes final. Chapter 43.20A RCW governs notice of a civil monetary penalty and provides the right of an adjudicative proceeding. The preponderance of evidence standard shall apply in adjudicative proceedings related to assessment of civil monetary penalties.

Sec. 7. RCW 74.13.650 and 2006 c 353 s 2 are each amended to read as follows:

A foster parent critical support and retention program is established to retain foster parents who care for sexually reactive children, physically assaultive children, or children with other high-risk behaviors, as defined in RCW 74.13.280. Services shall consist of short-term therapeutic and educational interventions to support the stability of the placement. The foster parent critical support and retention program is to be implemented under the division of children and family services' contract and supervision. A contractor must demonstrate experience providing in-home case management, as well as experience working with caregivers of children with significant behavioral issues that pose a threat to others or themselves or the stability of the placement.

Sec. 8. RCW 74.13.660 and 2006 c 353 s 3 are each amended to read as follows:

Under the foster parent critical support and retention program, foster parents who care for sexually reactive children, physically assaultive children, or children with other high-risk behaviors, as defined in RCW 74.13.280, shall receive:

(1) Availability at any time of the day or night to address specific concerns related to the identified child;

(2) Assessment of risk and development of a safety and supervision plan;

(3) Home-based foster parent training utilizing evidence-based models; and

(4) Referral to relevant community services and training provided by the local children's administration office or community agencies.

Sec. 9. RCW 13.34.110 and 2001 c 332 s 7 are each amended to read as follows:

(1) The court shall hold a fact-finding hearing on the petition and, unless the court dismisses the petition, shall make written findings of fact, stating the reasons therefor. The rules of evidence shall apply at the fact-finding hearing and the parent, guardian, or legal custodian of the child shall have all of the rights provided in RCW 13.34.090(1). The petitioner shall have the burden of establishing by a preponderance of the evidence that the child is dependent within the meaning of RCW 13.34.030.

~~(2)((a))~~ The court in a fact-finding hearing may consider the history of past involvement of child protective services or law enforcement agencies with the family for the purpose of establishing a pattern of conduct, behavior, or inaction with regard to the health, safety, or welfare of the child on the part of the child's parent, guardian, or legal custodian, or for the purpose of establishing that reasonable efforts have been made by the department to prevent or eliminate the need for removal of the child from the child's home. No report of child abuse or neglect that has been destroyed or expunged under RCW 26.44.031 may be used for such purposes.

~~(3)(a)~~ The parent, guardian, or legal custodian of the child may waive his or her right to a fact-finding hearing by stipulating or agreeing to the entry of an order of dependency establishing that the child is dependent within the meaning of RCW 13.34.030. The parent, guardian, or legal custodian may also stipulate or agree to an order of disposition pursuant to RCW 13.34.130 at the same time. Any stipulated or agreed order of dependency or disposition must be signed by the parent, guardian, or legal custodian and his or her attorney, unless the parent, guardian, or legal custodian has waived his or her right to an attorney in open court, and by the petitioner and the attorney, guardian ad litem, or court-appointed special advocate for the child, if any. If the department of social and health services is not the petitioner and is required by the order to supervise the placement of the child or provide services to any party, the department must also agree to and sign the order.

(b) Entry of any stipulated or agreed order of dependency or disposition is subject to approval by the court. The court shall receive and review a social study before entering a stipulated or agreed order and shall consider whether the order is consistent with the allegations of the dependency petition and the problems that necessitated the child's placement in out-of-home care. No social file or social study may be considered by the court in connection with the fact-finding hearing or prior to factual determination, except as otherwise admissible under the rules of evidence.

(c) Prior to the entry of any stipulated or agreed order of dependency, the parent, guardian, or legal custodian of the child and his or her attorney must appear before the court and the court within available resources must inquire and establish on the record that:

(i) The parent, guardian, or legal custodian understands the terms of the order or orders he or she has signed, including his or her responsibility to participate in remedial services as provided in any disposition order;

(ii) The parent, guardian, or legal custodian understands that entry of the order starts a process that could result in the filing of a petition to terminate his or her relationship with the child within the time frames required by state and federal law if he or she fails to comply with the terms of the dependency or disposition orders or fails to substantially remedy the problems that necessitated the child's placement in out-of-home care;

(iii) The parent, guardian, or legal custodian understands that the entry of the stipulated or agreed order of dependency is an admission that the child is dependent within the meaning of RCW 13.34.030 and shall have the same legal effect as a finding by the court that the child is dependent by at least a preponderance of the evidence, and that the parent, guardian, or legal custodian shall not have the right in any subsequent proceeding for termination of parental rights or dependency

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guardianship pursuant to this chapter or nonparental custody pursuant to chapter 26.10 RCW to challenge or dispute the fact that the child was found to be dependent; and

(iv) The parent, guardian, or legal custodian knowingly and willingly stipulated and agreed to and signed the order or orders, without duress, and without misrepresentation or fraud by any other party.

If a parent, guardian, or legal custodian fails to appear before the court after stipulating or agreeing to entry of an order of dependency, the court may enter the order upon a finding that the parent, guardian, or legal custodian had actual notice of the right to appear before the court and chose not to do so. The court may require other parties to the order, including the attorney for the parent, guardian, or legal custodian, to appear and advise the court of the parent's, guardian's, or legal custodian's notice of the right to appear and understanding of the factors specified in this subsection. A parent, guardian, or legal custodian may choose to waive his or her presence at the in-court hearing for entry of the stipulated or agreed order of dependency by submitting to the court through counsel a completed stipulated or agreed dependency fact-finding/disposition statement in a form determined by the Washington state supreme court pursuant to General Rule GR 9.

((3)) (4) Immediately after the entry of the findings of fact, the court shall hold a disposition hearing, unless there is good cause for continuing the matter for up to fourteen days. If good cause is shown, the case may be continued for longer than fourteen days. Notice of the time and place of the continued hearing may be given in open court. If notice in open court is not given to a party, that party shall be notified by certified mail of the time and place of any continued hearing. Unless there is reasonable cause to believe the health, safety, or welfare of the child would be jeopardized or efforts to reunite the parent and child would be hindered, the court shall direct the department to notify those adult persons who: (a) Are related by blood or marriage to the child in the following degrees: Parent, grandparent, brother, sister, stepparent, stepbrother, stepsister, uncle, or aunt; (b) are known to the department as having been in contact with the family or child within the past twelve months; and (c) would be an appropriate placement for the child. Reasonable cause to dispense with notification to a parent under this section must be proved by clear, cogent, and convincing evidence.

The parties need not appear at the fact-finding or dispositional hearing if the parties, their attorneys, the guardian ad litem, and court-appointed special advocates, if any, are all in agreement.

NEW SECTION. Sec. 10. Sections 1 through 3 of this act take effect October 1, 2008.

NEW SECTION. Sec. 11. The secretary of the department of social and health services may take the necessary steps to ensure that sections 1 through 3 of this act are implemented on their effective date."

On page 1, line 1 of the title, after "information;" strike the remainder of the title and insert "amending RCW 26.44.020, 26.44.030, 26.44.031, 74.13.280, 74.15.130, 74.13.650, 74.13.660, and 13.34.110; adding a new section to chapter 74.13 RCW; creating a new section; and providing an effective date."

and the same are herewith transmitted.

RICHARD NAFZIGER, Chief Clerk

MOTION

Senator Carrell moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5321.

Senators Carrell and Regala spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Carrell that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5321.

The motion by Senator Carrell carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 5321 by voice vote.

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The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5321, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5321, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 1; Excused, 2.

Voting yea: Senators Benton, Berkey, Carrell, Clements, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, Morton, Murray, Oemig, Parlette, Pflug, Poulsen, Prentice, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Tom, Weinstein and Zarelli - 46

Absent: Senator Brandland - 1

Excused: Senators Brown and Pridemore - 2

SUBSTITUTE SENATE BILL NO. 5321, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

April 5, 2007

MR. PRESIDENT:

The House has passed SENATE BILL NO. 5332, with the following amendment: 5332 AMH APP H3272.1

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 36.28A.040 and 2001 c 169 s 3 are each amended to read as follows:

(1) No later than July 1, 2002, the Washington association of sheriffs and police chiefs shall implement and operate an electronic statewide city and county jail booking and reporting system. The system shall serve as a central repository and instant information source for offender information and jail statistical data. The system (~~shall~~) may be placed on the Washington state justice information network and be capable of communicating electronically with every Washington state city and county jail and with all other Washington state criminal justice agencies as defined in RCW 10.97.030.

(2) After the Washington association of sheriffs and police chiefs has implemented an electronic jail booking system as described in subsection (1) of this section, if a city or county jail or law enforcement agency receives state or federal funding to cover the entire cost of implementing or reconfiguring an electronic jail booking system, the city or county jail or law enforcement agency shall implement or reconfigure an electronic jail booking system that is in compliance with the jail booking system standards developed pursuant to subsection (4) of this section.

(3) After the Washington association of sheriffs and police chiefs has implemented an electronic jail booking system as described in subsection (1) of this section, city or county jails, or law enforcement agencies that operate electronic jail booking systems, but choose not to accept state or federal money to implement or reconfigure electronic jail booking systems, shall electronically forward jail booking information to the Washington association of sheriffs and police chiefs. At a minimum the information forwarded shall include the name of the offender, vital statistics, the date the offender was arrested, the offenses arrested for, the date and time an offender is released or transferred from a city or county jail, and if available, the mug shot. The electronic format in which the information is sent shall be at the discretion of the city or county jail, or law enforcement agency forwarding the information. City and county jails or law enforcement agencies that forward

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jail booking information under this subsection are not required to comply with the standards developed under subsection (4)(b) of this section.

(4) The Washington association of sheriffs and police chiefs shall appoint, convene, and manage a statewide jail booking and reporting system standards committee. The committee shall include representatives from the Washington association of sheriffs and police chiefs correction committee, the information service board's justice information committee, the judicial information system, at least two individuals who serve as jailers in a city or county jail, and other individuals that the Washington association of sheriffs and police chiefs places on the committee. The committee shall have the authority to:

(a) Develop and amend as needed standards for the statewide jail booking and reporting system and for the information that must be contained within the system. At a minimum, the system shall contain:

- (i) The offenses the individual has been charged with;
- (ii) Descriptive and personal information about each offender booked into a city or county jail. At a minimum, this information shall contain the offender's name, vital statistics, address, and mugshot;
- (iii) Information about the offender while in jail, which could be used to protect criminal justice officials that have future contact with the offender, such as medical conditions, acts of violence, and other behavior problems;
- (iv) Statistical data indicating the current capacity of each jail and the quantity and category of offenses charged;
- (v) The ability to communicate directly and immediately with the city and county jails and other criminal justice entities; and
- (vi) The date and time that an offender was released or transferred from a local jail;

(b) Develop and amend as needed operational standards for city and county jail booking systems, which at a minimum shall include the type of information collected and transmitted, and the technical requirements needed for the city and county jail booking system to communicate with the statewide jail booking and reporting system;

(c) Develop and amend as needed standards for allocating grants to city and county jails or law enforcement agencies that will be implementing or reconfiguring electronic jail booking systems.

~~(5) ((By January 1, 2001, the standards committee shall complete the initial standards described in subsection (4) of this section, and the standards shall be placed into a report and provided to all Washington state city and county jails, all other criminal justice agencies as defined in RCW 10.97.030, the chair of the Washington state senate human services and corrections committee, and the chair of the Washington state house of representatives criminal justice and corrections committee.)) (a) A statewide automated victim information and notification system shall be added to the city and county jail booking and reporting system. The system shall:~~

~~(i) Automatically notify a registered victim via the victim's choice of telephone, letter, or e-mail when any of the following events affect an offender housed in any Washington state city or county jail or department of corrections facility;~~

~~(A) Is transferred or assigned to another facility;~~

~~(B) Is transferred to the custody of another agency outside the state;~~

~~(C) Is given a different security classification;~~

~~(D) Is released on temporary leave or otherwise;~~

~~(E) Is discharged;~~

~~(F) Has escaped; or~~

~~(G) Has been served with a protective order that was requested by the victim;~~

~~(ii) Automatically notify a registered victim via the victim's choice of telephone, letter, or e-mail when an offender has:~~

~~(A) An upcoming court event where the victim is entitled to be present, if the court information is made available to the statewide automated victim information and notification system administrator at the Washington association of sheriffs and police chiefs;~~

~~(B) An upcoming parole, pardon, or community supervision hearing; or~~

~~(C) A change in the offender's parole, probation, or community supervision status including:~~

~~(I) A change in the offender's supervision status; or~~

~~(II) A change in the offender's address;~~

~~(iii) Automatically notify a registered victim via the victim's choice of telephone, letter, or e-mail when a sex offender has:~~

~~(A) Updated his or her profile information with the state sex offender registry; or~~

~~(B) Become noncompliant with the state sex offender registry;~~

~~(iv) Permit a registered victim to receive the most recent status report for an offender in any Washington state city and county jail, department of corrections, or sex offender registry by calling the statewide automated victim information and notification system on a toll-free telephone number or by accessing the statewide automated victim information and notification system via a public web site. All registered victims calling the statewide automated victim information and notification system will be given the option to have live operator assistance to help use the program on a twenty-four hour, three hundred sixty-five day per year basis;~~

~~(v) Permit a crime victim to register, or registered victim to update, the victim's registration information for the statewide automated victim information and notification system by calling a toll-free telephone number or by accessing a public web site; and~~

~~(vi) Ensure that the offender information contained within the statewide automated victim information and notification system is updated frequently to timely notify a crime victim that an offender has been released or discharged or has escaped. However, the failure of the statewide automated victim information and notification system to provide notice to the victim does not establish a separate cause of action by the victim against state officials, local officials, law enforcement officers, or any related correctional authorities.~~

~~(b) An appointed or elected official, public employee, or public agency as defined in RCW 4.24.470, or units of government and its employees, as provided in RCW 36.28A.010, are immune from civil liability for damages for any release of information or the failure to release information related to the statewide automated victim information and notification system and the jail booking and reporting system as described in this section, so long as the release was without gross negligence. The immunity provided under this subsection applies to the release of relevant and necessary information to other public officials, public employees, or public agencies, and to the general public.~~

~~(c) Participation in the statewide automated victim information and notification program satisfies any obligation to notify the crime victim of an offender's custody status and the status of the offender's upcoming court events so long as:~~

~~(i) Information making offender and case data available is provided on a timely basis to the statewide automated victim information and notification program; and~~

~~(ii) Information a victim submits to register and participate in the victim notification system is only used for the sole purpose of victim notification.~~

~~(d) Automated victim information and notification systems in existence and operational as of the effective date of this act shall not be required to participate in the statewide system.~~

~~NEW SECTION. Sec. 2. In Washington any vendor contracted to provide a statewide automated victim notification service must deliver the service with a minimum of 99.95-percent availability and with less than an average of one-percent notification errors as a result of the vendor's technology.~~

~~NEW SECTION. Sec. 3. The department of corrections is not required to provide any data to the Washington association of sheriffs and police chiefs for the statewide automated victim information and notification system as stated in section 1 of this act, until January 1, 2010."~~

~~Correct the title.
and the same are herewith transmitted.~~

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RICHARD NAFZIGER, Chief Clerk

MOTION

Senator Regala moved that the Senate concur in the House amendment(s) to Senate Bill No. 5332.

Senator Regala spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Regala that the Senate concur in the House amendment(s) to Senate Bill No. 5332.

The motion by Senator Regala carried and the Senate concurred in the House amendment(s) to Senate Bill No. 5332 by voice vote.

The President declared the question before the Senate to be the final passage of Senate Bill No. 5332, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 5332, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Benton, Berkey, Brandland, Carrell, Clements, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, Morton, Murray, Oemig, Parlette, Pflug, Poulsen, Prentice, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Tom, Weinstein and Zarelli - 47

Excused: Senators Brown and Pridemore - 2

SENATE BILL NO. 5332, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

On motion of Senator Delvin, Senator Parlette was excused.

MOTION

On motion of Senator Regala, Senator Prentice was excused.

MESSAGE FROM THE HOUSE

April 4, 2007

MR. PRESIDENT:

The House has passed SENATE BILL NO. 5402, with the following amendment: 5402 AMH APP H3273.1

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 28C.10.020 and 1993 c 445 s 1 are each amended to read as follows:

Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Agency" means the work force training and education coordinating board.

(2) "Agent" means a person owning an interest in, employed by, or representing for remuneration a private vocational school within or without this state, who enrolls or personally attempts to secure the enrollment in a private vocational school of a resident of this state, offers to award educational credentials for remuneration on behalf of a private vocational school, or holds himself or herself out to residents of this state as representing a private vocational school for any of these purposes.

(3) "Degree" means any designation, appellation, letters, or words including but not limited to "associate," "bachelor,"

"master," "doctor," or "fellow" which signify or purport to signify satisfactory completion of an academic program of study beyond the secondary school level.

(4) "Education" includes but is not limited to, any class, course, or program of training, instruction, or study.

(5) "Educational credentials" means degrees, diplomas, certificates, transcripts, reports, or documents, ~~((or letters of designation, marks, appellations, series of letters, numbers, or words which))~~ that signify ~~((or appear to signify enrollment, attendance, progress, or))~~ satisfactory completion of the requirements or prerequisites for any educational program.

(6) "Entity" includes, but is not limited to, a person, company, firm, society, association, partnership, corporation, or trust.

(7) "Private vocational school" means any location where an entity is offering postsecondary education in any form or manner for the purpose of instructing, training, or preparing persons for any vocation or profession.

(8) "Probation" means the agency has officially notified a private vocational school in writing that the school or a program offered by the school has been identified by the agency as at risk and has deficiencies that must be corrected within a specified time period.

(9) "Program" means a sequence of approved subjects offered by a school that teaches skills and fundamental knowledge required for employment in a particular occupation.

(10) "To grant" includes to award, issue, sell, confer, bestow, or give.

~~((+))~~ (11) "To offer" includes, in addition to its usual meanings, to advertise or publicize. "To offer" also means to solicit or encourage any person, directly or indirectly, to perform the act described.

~~((+))~~ (12) "To operate" means to establish, keep, or maintain any facility or location where, from, or through which education is offered or educational credentials are offered or granted to residents of this state, and includes contracting for the performance of any such act.

Sec. 2. RCW 28C.10.050 and 2005 c 274 s 247 are each amended to read as follows:

(1) The agency shall adopt by rule minimum standards for entities operating private vocational schools. The minimum standards shall include, but not be limited to, requirements ~~((for each))~~ to assess whether a private vocational school is eligible to obtain and maintain a license in this state.

(2) The requirements adopted by the agency shall, at a minimum, require a private vocational school to:

(a) Disclose to the agency information about its ownership and financial position and to demonstrate to the agency that the school is financially viable and responsible and that it has sufficient financial resources to fulfill its commitments to students. Financial disclosures provided to the agency shall not be subject to public disclosure under chapter 42.56 RCW;

(b) Follow a uniform statewide cancellation and refund policy as specified by the agency;

(c) Disclose through use of a school catalog, brochure, or other written material, necessary information to students so that students may make informed enrollment decisions. The agency shall specify what information is required;

(d) Use an enrollment contract or agreement that includes: (i) The school's cancellation and refund policy, (ii) a brief statement that the school is licensed under this chapter and that inquiries may be made to the agency, and (iii) other necessary information as determined by the agency;

(e) Describe accurately and completely in writing to students before their enrollment prerequisites and requirements for (i) completing successfully the programs of study in which they are interested and (ii) qualifying for the fields of employment for which their education is designed;

(f) Comply with the requirements of RCW 28C.10.084;

(g) Assess the basic skills and relevant aptitudes of each potential student to determine that a potential student has the basic skills and relevant aptitudes necessary to complete and benefit from the program in which the student plans to enroll, including but not limited to administering a United States department of education-approved English as a second language

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exam before enrolling students for whom English is a second language unless the students provide proof of graduation from a United States high school or proof of completion of a GED in English or results of another academic assessment determined appropriate by the agency. Guidelines for such assessments shall be developed by the agency, in consultation with the schools. (The method of assessment shall be reported to the agency. Assessment records shall be maintained in the student's file);

(h) Discuss with each potential student the potential student's obligations in signing any enrollment contract and/or incurring any debt for educational purposes. The discussion shall include the inadvisability of acquiring an excessive educational debt burden that will be difficult to repay given employment opportunities and average starting salaries in the potential student's chosen occupation(=);

~~((2) Any enrollment contract shall have))~~ (i) Ensure that any enrollment contract between the private vocational school and its students has an attachment in a format provided by the agency. The attachment shall be signed by both the school and the student. The attachment shall stipulate that the school has complied with ((subsection (1)))(h) of this ((section)) subsection and that the student understands and accepts his or her responsibilities in signing any enrollment contract or debt application. The attachment shall also stipulate that the enrollment contract shall not be binding for at least five days, excluding Sundays and holidays, following signature of the enrollment contract by both parties((-

~~(3) The agency shall deny, revoke, or suspend the license of any school that does not meet or maintain the minimum standards); and~~

(i) Comply with the requirements related to qualifications of administrators and instructors.

(3) The agency may deny a private vocational school's application for licensure if the school fails to meet the requirements in this section.

(4) The agency may determine that a licensed private vocational school or a particular program of a private vocational school is at risk of closure or termination if:

(a) There is a pattern or history of substantiated student complaints filed with the agency pursuant to RCW 28C.10.120; or

(b) The private vocational school fails to meet minimum licensing requirements and has a pattern or history of failing to meet the minimum requirements.

(5) If the agency determines that a private vocational school or a particular program is at risk of closure or termination, the agency shall require the school to take corrective action.

Sec. 3. RCW 28C.10.120 and 1993 c 445 s 3 are each amended to read as follows:

(1) Complaints may be filed under this chapter only by a person claiming loss of tuition or fees as a result of an unfair business practice. The complaint shall set forth the alleged violation and shall contain information required by the agency on forms provided for that purpose. A complaint may also be filed with the agency by an authorized staff member of the agency or by the attorney general.

(2) The agency shall investigate any complaint under this section and shall first attempt to bring about a negotiated settlement. The agency director or the director's designee may conduct an informal hearing with the affected parties in order to determine whether a violation has occurred.

(3) If the agency finds that the private vocational school or its agent engaged in or is engaging in any unfair business practice, the agency shall issue and cause to be served upon the violator an order requiring the violator to cease and desist from the act or practice and may impose the penalties provided under RCW 28C.10.130. If the agency finds that the complainant has suffered loss as a result of the act or practice, the agency may order the violator to pay full or partial restitution of any amounts lost. The loss may include any money paid for tuition, required or recommended course materials, and any reasonable living expenses incurred by the complainant during the time the complainant was enrolled at the school.

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(4) The complainant is not bound by the agency's determination of restitution. The complainant may reject that determination and may pursue any other legal remedy.

(5) The violator may, within twenty days of being served any order described under subsection (3) of this section, file an appeal under the administrative procedure act, chapter 34.05 RCW. Timely filing stays the agency's order during the pendency of the appeal. If the agency prevails, the appellant shall pay the costs of the administrative hearing.

(6) If a private vocational school closes without providing adequate notice to its enrolled students, the agency shall provide transition assistance to the school's students including, but not limited to, information regarding: (a) Transfer options available to students; (b) financial aid discharge eligibility and procedures; (c) the labor market, job search strategies, and placement assistance services; and (d) other support services available to students."

Correct the title.
and the same are herewith transmitted.

RICHARD NAFZIGER, Chief Clerk

MOTION

Senator Kilmer moved that the Senate concur in the House amendment(s) to Senate Bill No. 5402.

Senator Kilmer spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Kilmer that the Senate concur in the House amendment(s) to Senate Bill No. 5402.

The motion by Senator Kilmer carried and the Senate concurred in the House amendment(s) to Senate Bill No. 5402 by voice vote.

The President declared the question before the Senate to be the final passage of Senate Bill No. 5402, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 5402, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 45; Nays, 0; Absent, 0; Excused, 4.

Voting yea: Senators Benton, Berkey, Brandland, Carrell, Clements, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, Morton, Murray, Oemig, Pflug, Poulsen, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Tom, Weinstein and Zarelli - 45

Excused: Senators Brown, Parlette, Prentice and Pridemore - 4

SENATE BILL NO. 5402, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

On motion of Senator Regala, Senator Fairley was excused.

MESSAGE FROM THE HOUSE

April 4, 2007

MR. PRESIDENT:

The House has passed SENATE BILL NO. 5429, with the following amendment: 5429 AMH HS H3120.1

Strike everything after the enacting clause and insert the following:

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"Sec. 1. RCW 72.09.480 and 2003 c 271 s 3 are each amended to read as follows:

(1) Unless the context clearly requires otherwise, the definitions in this section apply to this section.

(a) "Cost of incarceration" means the cost of providing an inmate with shelter, food, clothing, transportation, supervision, and other services and supplies as may be necessary for the maintenance and support of the inmate while in the custody of the department, based on the average per inmate costs established by the department and the office of financial management.

(b) "Minimum term of confinement" means the minimum amount of time an inmate will be confined in the custody of the department, considering the sentence imposed and adjusted for the total potential earned early release time available to the inmate.

(c) "Program" means any series of courses or classes necessary to achieve a proficiency standard, certificate, or postsecondary degree.

(2) When an inmate, except as provided in subsections ~~((7))~~ (4) and (8) of this section, receives any funds in addition to his or her wages or gratuities, except settlements or awards resulting from legal action, the additional funds shall be subject to the following deductions and the priorities established in chapter 72.11 RCW:

(a) Five percent to the public safety and education account for the purpose of crime victims' compensation;

(b) Ten percent to a department personal inmate savings account;

~~(c) (Twenty percent to the department to contribute to the cost of incarceration;~~

~~(d))~~ Twenty percent for payment of legal financial obligations for all inmates who have legal financial obligations owing in any Washington state superior court; ~~(and~~

~~(e) Fifteen))~~ (d) Twenty percent for any child support owed under a support order; and

(e) Twenty percent to the department to contribute to the cost of incarceration.

(3) When an inmate, except as provided in subsection ~~((7))~~ (8) of this section, receives any funds from a settlement or award resulting from a legal action, the additional funds shall be subject to the deductions in RCW 72.09.111(1)(a) and the priorities established in chapter 72.11 RCW.

(4) When an inmate who is subject to a child support order receives funds from an inheritance, the deduction required under subsection (2)(e) of this section shall only apply after the child support obligation has been paid in full.

(5) The amount deducted from an inmate's funds under subsection (2) of this section shall not exceed the department's total cost of incarceration for the inmate incurred during the inmate's minimum or actual term of confinement, whichever is longer.

~~((5))~~ (6) The deductions required under subsection (2) of this section shall not apply to funds received by the department on behalf of an offender for payment of one fee-based education or vocational program that is associated with an inmate's work program or a placement decision made by the department under RCW 72.09.460 to prepare an inmate for work upon release.

An inmate may, prior to the completion of the fee-based education or vocational program authorized under this subsection, apply to a person designated by the secretary for permission to make a change in his or her program. The secretary, or his or her designee, may approve the application based solely on the following criteria: (a) The inmate has been transferred to another institution by the department for reasons unrelated to education or a change to a higher security classification and the offender's current program is unavailable in the offender's new placement; (b) the inmate entered an academic program as an undeclared major and wishes to declare a major. No inmate may apply for more than one change to his or her major and receive the exemption from deductions specified in this subsection; (c) the educational or vocational institution is terminating the inmate's current program; or (d) the offender's training or education has demonstrated that the current program is not the appropriate program to assist the

offender to achieve a placement decision made by the department under RCW 72.09.460 to prepare the inmate for work upon release.

~~((6))~~ (7) The deductions required under subsection (2) of this section shall not apply to any money received by the department, on behalf of an inmate, from family or other outside sources for the payment of postage expenses. Money received under this subsection may only be used for the payment of postage expenses and may not be transferred to any other account or purpose. Money that remains unused in the inmate's postage fund at the time of release shall be subject to the deductions outlined in subsection (2) of this section.

~~((7))~~ (8) When an inmate sentenced to life imprisonment without possibility of release or parole, or to death under chapter 10.95 RCW, receives any funds in addition to his or her gratuities, except settlements or awards resulting from legal action, the additional funds shall be subject to: Deductions of five percent to the public safety and education account for the purpose of crime victims' compensation, twenty percent to the department to contribute to the cost of incarceration, and fifteen percent to child support payments.

~~((8))~~ (9) When an inmate sentenced to life imprisonment without possibility of release or parole, or to death under chapter 10.95 RCW, receives any funds from a settlement or award resulting from a legal action in addition to his or her gratuities, the additional funds shall be subject to: Deductions of five percent to the public safety and education account for the purpose of crime victims' compensation and twenty percent to the department to contribute to the cost of incarceration.

~~((9))~~ (10) The interest earned on an inmate savings account created as a result of the plan in section 4, chapter 325, Laws of 1999 shall be exempt from the mandatory deductions under this section and RCW 72.09.111.

~~((10))~~ (11) Nothing in this section shall limit the authority of the department of social and health services division of child support from taking collection action against an inmate's moneys, assets, or property pursuant to chapter 26.23, 74.20, or 74.20A RCW including, but not limited to, the collection of moneys received by the inmate from settlements or awards resulting from legal action."

and the same are herewith transmitted.

RICHARD NAFZIGER, Chief Clerk

MOTION

Senator Franklin moved that the Senate concur in the House amendment(s) to Senate Bill No. 5429.

Senator Franklin spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Franklin that the Senate concur in the House amendment(s) to Senate Bill No. 5429.

The motion by Senator Franklin carried and the Senate concurred in the House amendment(s) to Senate Bill No. 5429 by voice vote.

The President declared the question before the Senate to be the final passage of Senate Bill No. 5429, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 5429, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 45; Nays, 0; Absent, 0; Excused, 4.

Voting yea: Senators Benton, Berkey, Brandland, Carrell, Clements, Delvin, Eide, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilter, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, Morton, Murray, Oemig, Pflug, Poulson, Prentice, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Tom, Weinstein and Zarelli - 45

Excused: Senators Brown, Fairley, Parlette and Pridemore -

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SENATE BILL NO. 5429, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

April 5, 2007

MR. PRESIDENT:

The House has passed SUBSTITUTE SENATE BILL NO. 5503, with the following amendment: 5503-S AMH APP H3347.1

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. It is the purpose of this chapter to provide for the licensure of persons offering athletic training services to the public and to ensure standards of competence and professional conduct on the part of athletic trainers.

NEW SECTION. Sec. 2. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Athlete" means a person who participates in exercise, recreation, sport, or games requiring physical strength, range-of-motion, flexibility, body awareness and control, speed, stamina, or agility, and the exercise, recreation, sports, or games are of a type conducted in association with an educational institution or professional, amateur, or recreational sports club or organization.

(2) "Athletic injury" means an injury or condition sustained by an athlete that affects the person's participation or performance in exercise, recreation, sport, or games and the injury or condition is within the professional preparation and education of an athletic trainer.

(3) "Athletic trainer" means a person who is licensed under this chapter. An athletic trainer can practice athletic training through the consultation, referral, or guidelines of a licensed health care provider working within their scope of practice.

(4)(a) "Athletic training" means the application of the following principles and methods as provided by a licensed athletic trainer:

(i) Risk management and prevention of athletic injuries through preactivity screening and evaluation, educational programs, physical conditioning and reconditioning programs, application of commercial products, use of protective equipment, promotion of healthy behaviors, and reduction of environmental risks;

(ii) Recognition, evaluation, and assessment of athletic injuries by obtaining a history of the athletic injury, inspection and palpation of the injured part and associated structures, and performance of specific testing techniques related to stability and function to determine the extent of an injury;

(iii) Immediate care of athletic injuries, including emergency medical situations through the application of first-aid and emergency procedures and techniques for nonlife-threatening or life-threatening athletic injuries;

(iv) Treatment, rehabilitation, and reconditioning of athletic injuries through the application of physical agents and modalities, therapeutic activities and exercise, standard reassessment techniques and procedures, commercial products, and educational programs, in accordance with guidelines established with a licensed health care provider as provided in section 8 of this act; and

(v) Referral of an athlete to an appropriately licensed health care provider if the athletic injury requires further definitive care or the injury or condition is outside an athletic trainer's scope of practice, in accordance with section 8 of this act.

(b) "Athletic training" does not include:

(i) The use of spinal adjustment or manipulative mobilization of the spine and its immediate articulations;

(ii) Orthotic or prosthetic services with the exception of evaluation, measurement, fitting, and adjustment of temporary,

prefabricated or direct-formed orthosis as defined in chapter 18.200 RCW;

(iii) The practice of occupational therapy as defined in chapter 18.59 RCW;

(iv) The practice of acupuncture as defined in chapter 18.06 RCW;

(v) Any medical diagnosis; and

(vi) Prescribing legend drugs or controlled substances, or surgery.

(5) "Committee" means the athletic training advisory committee.

(6) "Department" means the department of health.

(7) "Licensed health care provider" means a physician, physician assistant, osteopathic physician, osteopathic physician assistant, advanced registered nurse practitioner, naturopath, physical therapist, chiropractor, dentist, massage practitioner, acupuncturist, occupational therapist, or podiatric physician and surgeon.

(8) "Secretary" means the secretary of health or the secretary's designee.

NEW SECTION. Sec. 3. (1) In addition to any other authority provided by law, the secretary may:

(a) Adopt rules, in accordance with chapter 34.05 RCW, necessary to implement this chapter;

(b) Establish all license, examination, and renewal fees in accordance with RCW 43.70.250;

(c) Establish forms and procedures necessary to administer this chapter;

(d) Establish administrative procedures, administrative requirements, and fees in accordance with RCW 43.70.250 and 43.70.280. All fees collected under this section must be credited to the health professions account as required under RCW 43.70.320;

(e) Develop and administer, or approve, or both, examinations to applicants for a license under this chapter;

(f) Issue a license to any applicant who has met the education, training, and examination requirements for licensure and deny a license to applicants who do not meet the minimum qualifications for licensure. However, denial of licenses based on unprofessional conduct or impaired practice is governed by the uniform disciplinary act, chapter 18.130 RCW;

(g) In consultation with the committee, approve examinations prepared or administered by private testing agencies or organizations for use by an applicant in meeting the licensing requirements under section 7 of this act;

(h) Determine which states have credentialing requirements substantially equivalent to those of this state, and issue licenses to individuals credentialed in those states that have successfully fulfilled the requirements of section 9 of this act;

(i) Hire clerical, administrative, and investigative staff as needed to implement and administer this chapter;

(j) Maintain the official department record of all applicants and licensees; and

(k) Establish requirements and procedures for an inactive license.

(2) The uniform disciplinary act, chapter 18.130 RCW, governs unlicensed practice, the issuance and denial of licenses, and the discipline of licensees under this chapter.

NEW SECTION. Sec. 4. (1) The athletic training advisory committee is formed to further the purposes of this chapter.

(2) The committee consists of five members. Four members of the committee must be athletic trainers licensed under this chapter and residing in this state, must have not less than five years' experience in the practice of athletic training, and must be actively engaged in practice within two years of appointment. The fifth member must be appointed from the public at large, and have an interest in the rights of consumers of health services.

(3) The committee may provide advice on matters specifically identified and requested by the secretary, such as applications for licenses.

(4) The committee may be requested by the secretary to approve an examination required for licensure under this chapter.

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(5) The committee, at the request of the secretary, may recommend rules in accordance with the administrative procedure act, chapter 34.05 RCW, relating to standards for appropriateness of athletic training care.

(6) The committee must meet during the year as necessary to provide advice to the secretary. The committee may elect a chair and a vice-chair. A majority of the members currently serving constitute a quorum.

(7) Each member of the committee must be reimbursed for travel expenses as authorized in RCW 43.03.050 and 43.03.060. In addition, members of the committee must be compensated in accordance with RCW 43.03.240 when engaged in the authorized business of the committee.

(8) The secretary, members of the committee, or individuals acting on their behalf are immune from suit in any action, civil or criminal, based on any credentialing or disciplinary proceedings or other official acts performed in the course of their duties.

NEW SECTION. Sec. 5. It is unlawful for any person to practice or offer to practice as an athletic trainer, or to represent themselves or other persons to be legally able to provide services as an athletic trainer, unless the person is licensed under the provisions of this chapter.

NEW SECTION. Sec. 6. Nothing in this chapter may prohibit, restrict, or require licensure of:

(1) Any person licensed, certified, or registered in this state and performing services within the authorized scope of practice;

(2) The practice by an individual employed by the government of the United States as an athletic trainer while engaged in the performance of duties prescribed by the laws of the United States;

(3) Any person pursuing a supervised course of study in an accredited athletic training educational program, if the person is designated by a title that clearly indicates a student or trainee status;

(4) An athletic trainer from another state for purposes of continuing education, consulting, or performing athletic training services while accompanying his or her group, individual, or representatives into Washington state on a temporary basis for no more than ninety days in a calendar year;

(5) Any elementary, secondary, or postsecondary school teacher, educator, coach, or authorized volunteer who does not represent themselves to the public as an athletic trainer; or

(6) A personal trainer employed by an athletic club or fitness center.

NEW SECTION. Sec. 7. An applicant for an athletic trainer license must:

(1) Have received a bachelor's or advanced degree from an accredited four-year college or university that meets the academic standards of athletic training, accepted by the secretary, as advised by the committee;

(2) Have successfully completed an examination administered or approved by the secretary, in consultation with the committee; and

(3) Submit an application on forms prescribed by the secretary and pay the licensure fee required under this chapter.

NEW SECTION. Sec. 8. (1) Except as necessary to provide emergency care of athletic injuries, an athletic trainer shall not provide treatment, rehabilitation, or reconditioning services to any person except as specified in guidelines established with a licensed health care provider who is licensed to perform the services provided in the guidelines.

(2) If there is no improvement in an athlete who has sustained an athletic injury within fifteen days of initiation of treatment, rehabilitation, or reconditioning, the athletic trainer must refer the athlete to a licensed health care provider that is appropriately licensed to assist the athlete.

(3) If an athletic injury requires treatment, rehabilitation, or reconditioning for more than forty-five days, the athletic trainer must consult with, or refer the athlete to a licensed health care provider. The athletic trainer shall document the action taken.

NEW SECTION. Sec. 9. Each applicant and license holder must comply with administrative procedures, administrative requirements, and fees under RCW 43.70.250 and 43.70.280.

The secretary shall furnish a license to any person who applies and who has qualified under the provisions of this chapter.

NEW SECTION. Sec. 10. Nothing in this chapter restricts the ability of athletic trainers to work in the practice setting of his or her choice.

NEW SECTION. Sec. 11. Nothing in this chapter may be construed to require that a health carrier defined in RCW 48.43.005 contract with a person licensed as an athletic trainer under this chapter.

Sec. 12. RCW 48.43.045 and 2006 c 25 s 7 are each amended to read as follows:

(1) Every health plan delivered, issued for delivery, or renewed by a health carrier on and after January 1, 1996, shall:

((+)) (a) Permit every category of health care provider to provide health services or care for conditions included in the basic health plan services to the extent that:

((+)) (i) The provision of such health services or care is within the health care providers' permitted scope of practice; and
 ((+)) (ii) The providers agree to abide by standards related to:

((+)) (A) Provision, utilization review, and cost containment of health services;

((+)) (B) Management and administrative procedures; and

((+)) (C) Provision of cost-effective and clinically efficacious health services.

((=)) (b) Annually report the names and addresses of all officers, directors, or trustees of the health carrier during the preceding year, and the amount of wages, expense reimbursements, or other payments to such individuals, unless substantially similar information is filed with the commissioner or the national association of insurance commissioners. This requirement does not apply to a foreign or alien insurer regulated under chapter 48.20 or 48.21 RCW that files a supplemental compensation exhibit in its annual statement as required by law.

(2) The requirements of subsection (1)(a) of this section do not apply to a licensed health care profession regulated under Title 18 RCW when the licensing statute for the profession states that such requirements do not apply.

Sec. 13. RCW 18.130.040 and 2004 c 38 s 2 are each amended to read as follows:

(1) This chapter applies only to the secretary and the boards and commissions having jurisdiction in relation to the professions licensed under the chapters specified in this section. This chapter does not apply to any business or profession not licensed under the chapters specified in this section.

(2)(a) The secretary has authority under this chapter in relation to the following professions:

(i) Dispensing opticians licensed and designated apprentices under chapter 18.34 RCW;

(ii) Naturopaths licensed under chapter 18.36A RCW;

(iii) Midwives licensed under chapter 18.50 RCW;

(iv) Ocularists licensed under chapter 18.55 RCW;

(v) Massage operators and businesses licensed under chapter 18.108 RCW;

(vi) Dental hygienists licensed under chapter 18.29 RCW;

(vii) Acupuncturists licensed under chapter 18.06 RCW;

(viii) Radiologic technologists certified and X-ray technicians registered under chapter 18.84 RCW;

(ix) Respiratory care practitioners licensed under chapter 18.89 RCW;

(x) Persons registered under chapter 18.19 RCW;

(xi) Persons licensed as mental health counselors, marriage and family therapists, and social workers under chapter 18.225 RCW;

(xii) Persons registered as nursing pool operators under chapter 18.52C RCW;

(xiii) Nursing assistants registered or certified under chapter 18.88A RCW;

(xiv) Health care assistants certified under chapter 18.135 RCW;

(xv) Dietitians and nutritionists certified under chapter 18.138 RCW;

(xvi) Chemical dependency professionals certified under chapter 18.205 RCW;

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(xvii) Sex offender treatment providers and certified affiliate sex offender treatment providers certified under chapter 18.155 RCW;

(xviii) Persons licensed and certified under chapter 18.73 RCW or RCW 18.71.205;

(xix) Denturists licensed under chapter 18.30 RCW;

(xx) Orthotists and prosthetists licensed under chapter 18.200 RCW;

(xxi) Surgical technologists registered under chapter 18.215 RCW; ~~(and)~~

(xxii) Recreational therapists; and

(xxiii) Athletic trainers licensed under chapter 18.-- RCW (sections 1 through 11 of this act).

(b) The boards and commissions having authority under this chapter are as follows:

(i) The podiatric medical board as established in chapter 18.22 RCW;

(ii) The chiropractic quality assurance commission as established in chapter 18.25 RCW;

(iii) The dental quality assurance commission as established in chapter 18.32 RCW;

(iv) The board of hearing and speech as established in chapter 18.35 RCW;

(v) The board of examiners for nursing home administrators as established in chapter 18.52 RCW;

(vi) The optometry board as established in chapter 18.54 RCW governing licenses issued under chapter 18.53 RCW;

(vii) The board of osteopathic medicine and surgery as established in chapter 18.57 RCW governing licenses issued under chapters 18.57 and 18.57A RCW;

(viii) The board of pharmacy as established in chapter 18.64 RCW governing licenses issued under chapters 18.64 and 18.64A RCW;

(ix) The medical quality assurance commission as established in chapter 18.71 RCW governing licenses and registrations issued under chapters 18.71 and 18.71A RCW;

(x) The board of physical therapy as established in chapter 18.74 RCW;

(xi) The board of occupational therapy practice as established in chapter 18.59 RCW;

(xii) The nursing care quality assurance commission as established in chapter 18.79 RCW governing licenses and registrations issued under that chapter;

(xiii) The examining board of psychology and its disciplinary committee as established in chapter 18.83 RCW; and

(xiv) The veterinary board of governors as established in chapter 18.92 RCW.

(3) In addition to the authority to discipline license holders, the disciplining authority has the authority to grant or deny licenses based on the conditions and criteria established in this chapter and the chapters specified in subsection (2) of this section. This chapter also governs any investigation, hearing, or proceeding relating to denial of licensure or issuance of a license conditioned on the applicant's compliance with an order entered pursuant to RCW 18.130.160 by the disciplining authority.

(4) All disciplining authorities shall adopt procedures to ensure substantially consistent application of this chapter, the Uniform Disciplinary Act, among the disciplining authorities listed in subsection (2) of this section.

NEW SECTION. Sec. 14. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. Sec. 15. Sections 1 through 11 of this act constitute a new chapter in Title 18 RCW.

NEW SECTION. Sec. 16. This act takes effect July 1, 2008.

NEW SECTION. Sec. 17. The secretary of health may take the necessary steps to ensure that this act is implemented on its effective date.

NEW SECTION. Sec. 18. If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2007, in the omnibus appropriations act, this act is null and void."

Correct the title.
and the same are herewith transmitted.

RICHARD NAFZIGER, Chief Clerk

MOTION

Senator Marr moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5503.

Senators Marr and Clements spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Marr that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5503.

The motion by Senator Marr carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 5503 by voice vote.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5503, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5503, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 41; Nays, 4; Absent, 0; Excused, 4.

Voting yea: Senators Berkey, Brandland, Carrell, Clements, Delvin, Eide, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, Morton, Oemig, Pflug, Poulsen, Prentice, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Swecker, Tom, Weinstein and Zarelli - 41

Voting nay: Senators Benton, Holmquist, Murray and Stevens - 4

Excused: Senators Brown, Fairley, Parlette and Pridemore - 4

SUBSTITUTE SENATE BILL NO. 5503, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

April 10, 2007

MR. PRESIDENT:

The House has passed ENGROSSED SENATE BILL NO. 5508, with the following amendments: 5508.E AMH ENGR H3527.E; 5508.E AMH HUNS KERR 086

On page 4, line 3, after "has" strike "a good record of providing information to" and insert "developed and adhered to guidelines regarding its permitting process for"

On page 7, line 9, after "has" strike "a good record of providing information to" and insert "developed and adhered to guidelines regarding its permitting process for"

On page 7, beginning on line 21, strike all of section 4
Re-number the remaining sections consecutively and correct any internal references accordingly.

On page 10, line 11, after "has" strike "a good record of providing information to" and insert "developed and adhered to guidelines regarding its permitting process for"

On page 13, line 7, strike all of section 10
Re-number the remaining section consecutively and correct any internal references accordingly.

Correct the title.

On page 13, starting on line 1, strike all of Section 9

Re-number remaining sections accordingly and correct the title.

and the same are herewith transmitted.

RICHARD NAFZIGER, Chief Clerk

NINETY-NINTH DAY, APRIL 16, 2007

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MOTION

Senator Kilmer moved that the Senate concur in the House amendment(s) to Engrossed Senate Bill No. 5508.

Senator Kilmer spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Kilmer that the Senate concur in the House amendment(s) to Engrossed Senate Bill No. 5508.

The motion by Senator Kilmer carried and the Senate concurred in the House amendment(s) to Engrossed Senate Bill No. 5508 by voice vote.

The President declared the question before the Senate to be the final passage of Engrossed Senate Bill No. 5508, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Senate Bill No. 5508, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Benton, Berkey, Brandland, Carrell, Clements, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, Morton, Murray, Oemig, Parlette, Pflug, Poulsen, Prentice, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Tom, Weinstein and Zarelli - 47

Excused: Senators Brown and Pridemore - 2

ENGROSSED SENATE BILL NO. 5508, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

April 9, 2007

MR. PRESIDENT:

The House has passed SUBSTITUTE SENATE BILL NO. 5533, with the following amendment: 5533-S AMH HS H3205.1; 5533-S AMH DICK HALL 242

On page 17, after line 9, strike all of section 10

Renumber the sections consecutively, correct the internal references accordingly, and correct the title.

On page 2, line 8, after "unit" insert "as defined in RCW 71.05.020(6). Individuals delivered to a crisis stabilization unit pursuant to this section may be held by the facility for a period of up to twelve hours: PROVIDED, that they are examined by a mental health professional within three hours of their arrival"

On page 4, line 4, after "by" strike "sections 4 and" and insert "section 4 or"

On page 4, line 7, after "in" strike "sections 4 and" and insert "section 4 or"

On page 4, beginning on line 10, after "evaluated" strike all material through "subsection" on line 11, and insert "for civil commitment proceedings"

On page 5, line 3, after "act," insert "but in any event for a period of no longer than ninety days,"

On page 26, line 10, after "chapter" strike "10.97" and insert "10.77"

and the same are herewith transmitted.

RICHARD NAFZIGER, Chief Clerk

MOTION

Senator Pflug moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5533.

Senator Pflug spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Pflug that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5533.

The motion by Senator Pflug carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 5533 by voice vote.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5533, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5533, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Benton, Berkey, Brandland, Carrell, Clements, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, Morton, Murray, Oemig, Parlette, Pflug, Poulsen, Prentice, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Tom, Weinstein and Zarelli - 47

Excused: Senators Brown and Pridemore - 2

SUBSTITUTE SENATE BILL NO. 5533, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

April 3, 2007

MR. PRESIDENT:

The House has passed SUBSTITUTE SENATE BILL NO. 5534, with the following amendment: 5534-S AMH CL REIN 101

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. A new section is added to chapter 50.04 RCW to read as follows:

The term "employment" shall not include services performed by a person who is participating in a performance sponsored by an employer whose North American industry classification system code is within "711110," "711120," "711130," or "712110," so long as the person receives no remuneration other than a nominal stipend and the employer does not have more than three individuals in its employ during any portion of a day during the calendar year.

For purposes of this section, "stipend" means a fixed sum of money paid periodically to defray expenses. The stipend is presumed to defray the person's incidental expenses involved in participating in the performance, including, but not limited to, meals, transportation, lodging, costumes, supplies, and child care."

and the same are herewith transmitted.

RICHARD NAFZIGER, Chief Clerk

MOTION

Senator Kohl-Welles moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5534.

Senator Kohl-Welles spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Kohl-Welles that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5534.

The motion by Senator Kohl-Welles carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 5534 by voice vote.

NINETY-NINTH DAY, APRIL 16, 2007

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5534, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5534, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Benton, Berkey, Brandland, Carrell, Clements, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, Morton, Murray, Oemig, Parlette, Pflug, Poulsen, Prentice, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Tom, Weinstein and Zarelli - 47

Excused: Senators Brown and Pridemore - 2

SUBSTITUTE SENATE BILL NO. 5534, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

At 11:59 p.m., on motion of Senator Eide, the Senate was recessed until 1:30 p.m.

AFTERNOON SESSION

The Senate was called to order at 1:30 a.m. by President Owen.

MESSAGE FROM THE HOUSE

April 14, 2007

MR. PRESIDENT:

The House has passed as amended by the Senate the following bills:

SUBSTITUTE HOUSE BILL NO. 1029,
ENGROSSED SUBSTITUTE HOUSE BILL NO. 1050,
SUBSTITUTE HOUSE BILL NO. 1082,
ENGROSSED SUBSTITUTE HOUSE BILL NO. 1131,
HOUSE BILL NO. 1166,
SECOND SUBSTITUTE HOUSE BILL NO. 1201,
ENGROSSED HOUSE BILL NO. 1217,
HOUSE BILL NO. 1224,
SUBSTITUTE HOUSE BILL NO. 1233,
SUBSTITUTE HOUSE BILL NO. 1244,
SUBSTITUTE HOUSE BILL NO. 1259,
SUBSTITUTE HOUSE BILL NO. 1267,
SUBSTITUTE HOUSE BILL NO. 1276,
SUBSTITUTE HOUSE BILL NO. 1287,
SUBSTITUTE HOUSE BILL NO. 1298,
SUBSTITUTE HOUSE BILL NO. 1304,
SUBSTITUTE HOUSE BILL NO. 1319,
ENGROSSED SUBSTITUTE HOUSE BILL NO. 1414,

and the same are herewith transmitted.

RICHARD NAFZIGER, Chief Clerk

MESSAGE FROM THE HOUSE

April 14, 2007

MR. PRESIDENT:

The House has passed as amended by the Senate the following bills:

HOUSE BILL NO. 1543,
HOUSE BILL NO. 1592,

HOUSE BILL NO. 1599,
SECOND SUBSTITUTE HOUSE BILL NO. 1636,
SUBSTITUTE HOUSE BILL NO. 1646,
ENGROSSED HOUSE BILL NO. 1648,
SUBSTITUTE HOUSE BILL NO. 1654,
SUBSTITUTE HOUSE BILL NO. 1761,
ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1779,
SUBSTITUTE HOUSE BILL NO. 1802,
SUBSTITUTE HOUSE BILL NO. 1837,
SUBSTITUTE HOUSE BILL NO. 1891,
SECOND SUBSTITUTE HOUSE BILL NO. 1896,
ENGROSSED HOUSE BILL NO. 1898,
ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1910,
SECOND SUBSTITUTE HOUSE BILL NO. 1922,
SUBSTITUTE HOUSE BILL NO. 1929,
HOUSE BILL NO. 1966,
HOUSE BILL NO. 2034,
SUBSTITUTE HOUSE BILL NO. 2049,
and the same are herewith transmitted.

RICHARD NAFZIGER, Chief Clerk

MESSAGE FROM THE HOUSE

April 14, 2007

MR. PRESIDENT:

The House has passed as amended by the Senate the following bills:

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1883,
and the same is herewith transmitted.

RICHARD NAFZIGER, Chief Clerk

MESSAGE FROM THE HOUSE

April 16, 2007

MR. PRESIDENT:

The House has passed the following bills:

HOUSE BILL NO. 2395
HOUSE BILL NO. 2396,
and the same are herewith transmitted.

RICHARD NAFZIGER, Chief Clerk

MESSAGE FROM THE HOUSE

April 16, 2007

MR. PRESIDENT:

The Speaker has signed:

SENATE BILL NO. 5123,
ENGROSSED SUBSTITUTE SENATE BILL NO. 5297,
SUBSTITUTE SENATE BILL NO. 5336,
SUBSTITUTE SENATE BILL NO. 5445,
SUBSTITUTE SENATE BILL NO. 5568,
SUBSTITUTE SENATE BILL NO. 5676,
SENATE BILL NO. 5773,
SUBSTITUTE SENATE BILL NO. 5972,
SUBSTITUTE SENATE BILL NO. 5984,
SENATE BILL NO. 6014,
SENATE JOINT RESOLUTION NO. 8212,
and the same are herewith transmitted.

RICHARD NAFZIGER, Chief Clerk

MESSAGE FROM THE HOUSE

April 16, 2007

NINETY-NINTH DAY, APRIL 16, 2007

2007 REGULAR SESSION

MR. PRESIDENT:

The Speaker has signed:

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1047,
 SUBSTITUTE HOUSE BILL NO. 1124,
 HOUSE BILL NO. 1181,
 SUBSTITUTE HOUSE BILL NO. 1264,
 HOUSE BILL NO. 1270,
 HOUSE BILL NO. 1291,
 SUBSTITUTE HOUSE BILL NO. 1312,
 HOUSE BILL NO. 1526,
 SUBSTITUTE HOUSE BILL NO. 1555,
 HOUSE BILL NO. 1680,
 HOUSE BILL NO. 1706,
 HOUSE BILL NO. 1789,
 HOUSE BILL NO. 1813,
 SUBSTITUTE HOUSE BILL NO. 1892,
 SUBSTITUTE HOUSE BILL NO. 1897,
 HOUSE BILL NO. 2032,
 SUBSTITUTE HOUSE BILL NO. 2056,

and the same are herewith transmitted.

RICHARD NAFZIGER, Chief Clerk

MOTION

On motion of Senator Eide, the Senate advanced to the sixth order of business.

SECOND READING

CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

MOTION

Senator Rockefeller moved that Gubernatorial Appointment No. 9211, Harold Abbe, as a member of the Columbia River Gorge Commission, be confirmed.

Senators Rockefeller, Benton and Berkey spoke in favor of the motion.

MOTION

On motion of Senator Brandland, Senators Morton, Parlette and Stevens were excused.

MOTION

On motion of Senator Regala, Senators Haugen and Shin were excused.

APPOINTMENT OF HAROLD ABBE

The President declared the question before the Senate to be the confirmation of Gubernatorial Appointment No. 9211, Harold Abbe as a member of the Columbia River Gorge Commission.

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9211, Harold Abbe as a member of the Columbia River Gorge Commission and the appointment was confirmed by the following vote: Yeas, 45; Nays, 0; Absent, 0; Excused, 4.

Voting yea: Senators Benton, Berkey, Brandland, Carrell, Clements, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, Murray, Oemig, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Tom, Weinstein and Zarelli - 45

Excused: Senators Brown, Haugen, Morton and Parlette - 4

Gubernatorial Appointment No. 9211, Harold Abbe, having received the constitutional majority was declared confirmed as a member of the Columbia River Gorge Commission.

MOTION

On motion of Senator Eide, the Senate reverted to the fourth order of business.

MESSAGE FROM THE HOUSE

April 10, 2007

MR. PRESIDENT:

The House has passed SENATE BILL NO. 5551, with the following amendment: 5551 AMH CL H3216.1; 5551 AMH CL H3218.1

On page 3, after line 3, insert the following:

"Sec. 4. RCW 82.26.110 and 2005 c 180 s 9 are each amended to read as follows:

(1)(a) Where tobacco products upon which the tax imposed by this chapter has been reported and paid((r)) are shipped or transported outside this state by the distributor to a person engaged in the business of selling tobacco products, to be sold by that person, or are returned to the manufacturer by the distributor or destroyed by the distributor, or are sold by the distributor to the United States or any of its agencies or instrumentalities, or are sold by the distributor to any Indian tribal organization, credit of such tax may be made to the distributor in accordance with rules prescribed by the department.

(b) For purposes of this subsection, the following definitions apply:

(i) "Indian distributor" means a federally recognized Indian tribe or tribal entity that would otherwise meet the definition of distributor under RCW 82.26.010, if federally recognized Indian tribes and tribal entities were not excluded from the definition of person in RCW 82.26.010.

(ii) "Indian retailer" means a federally recognized Indian tribe or tribal entity that would otherwise meet the definition of retailer under RCW 82.26.010, if federally recognized Indian tribes and tribal entities were not excluded from the definition of person in RCW 82.26.010.

(iii) "Indian tribal organization" means a federally recognized Indian tribe, or tribal entity, and includes an Indian distributor or retailer that is owned by an Indian who is an enrolled tribal member conducting business under tribal license or similar tribal approval within Indian country.

(2) Credit allowed under this section shall be determined based on the tax rate in effect for the period for which the tax imposed by this chapter, for which a credit is sought, was paid."

Correct the title.

On page 3, after line 3, insert the following:

"NEW SECTION. Sec. 4. A new section is added to chapter 82.04 RCW to read as follows:

This chapter does not apply to compensation allowed under RCW 82.24.295 for wholesalers and retailers for their services in affixing the stamps required under chapter 82.24 RCW. For purposes of this section, "wholesaler," "retailer," and "stamp" have the same meaning as in chapter 82.24 RCW."

Correct the title.

and the same are herewith transmitted.

RICHARD NAFZIGER, Chief Clerk

MOTION

Senator Prentice moved that the Senate concur in the House amendment(s) to Senate Bill No. 5551.

Senators Prentice and Clements spoke in favor of the motion.

NINETY-NINTH DAY, APRIL 16, 2007

The President declared the question before the Senate to be the motion by Senator Prentice that the Senate concur in the House amendment(s) to Senate Bill No. 5551.

The motion by Senator Prentice carried and the Senate concurred in the House amendment(s) to Senate Bill No. 5551 by voice vote.

The President declared the question before the Senate to be the final passage of Senate Bill No. 5551, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 5551, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 0; Excused, 3.

Voting yea: Senators Benton, Berkey, Brandland, Carrell, Clements, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, Murray, Oemig, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Tom, Weinstein and Zarelli - 46

Excused: Senators Brown, Morton and Parlette - 3

SENATE BILL NO. 5551, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SIGNED BY THE PRESIDENT

The President signed:

SUBSTITUTE SENATE BILL NO. 5050,
SUBSTITUTE SENATE BILL NO. 5108,
SUBSTITUTE SENATE BILL NO. 5193,
SUBSTITUTE SENATE BILL NO. 5236,
SUBSTITUTE SENATE BILL NO. 5315,
ENGROSSED SENATE BILL NO. 5401,
SUBSTITUTE SENATE BILL NO. 5447,
SECOND SUBSTITUTE SENATE BILL NO. 5467,
ENGROSSED SENATE BILL NO. 5498,
SECOND SUBSTITUTE SENATE BILL NO. 5597,
ENGROSSED SUBSTITUTE SENATE BILL NO. 5726,
SUBSTITUTE SENATE BILL NO. 5826,
ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 5923,
SENATE CONCURRENT RESOLUTION NO. 8404,

SIGNED BY THE PRESIDENT

The President signed:

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1047,
SUBSTITUTE HOUSE BILL NO. 1124,
HOUSE BILL NO. 1181,
SUBSTITUTE HOUSE BILL NO. 1264,
HOUSE BILL NO. 1270,
HOUSE BILL NO. 1291,
SUBSTITUTE HOUSE BILL NO. 1312,
HOUSE BILL NO. 1526,
SUBSTITUTE HOUSE BILL NO. 1555,
HOUSE BILL NO. 1680,
HOUSE BILL NO. 1706,
HOUSE BILL NO. 1789,
HOUSE BILL NO. 1813,
SUBSTITUTE HOUSE BILL NO. 1892,
SUBSTITUTE HOUSE BILL NO. 1897,
HOUSE BILL NO. 2032,
SUBSTITUTE HOUSE BILL NO. 2056,

MESSAGE FROM THE HOUSE

MR. PRESIDENT:

The House has passed SUBSTITUTE SENATE BILL NO. 5634, with the following amendment: 5634-S AMH PSEP H3064.2

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 43.101.220 and 1981 c 136 s 26 are each amended to read as follows:

(1) The corrections personnel of the state and all counties and municipal corporations initially employed on or after January 1, 1982, shall engage in basic corrections training which complies with standards adopted by the commission (~~pursuant to RCW 43.101.160~~). The training shall be successfully completed during the first six months of employment of the personnel, unless otherwise extended or waived by the commission, and shall be requisite to the continuation of employment.

(2) ~~((The corrections personnel of the state and all counties and municipal corporations transferred or promoted to a supervisory or management position on or after January 1, 1982, shall engage in supervisory and/or management training which complies with standards adopted by the commission pursuant to RCW 43.101.160. The training shall be successfully completed prior to or within the first six months of employment, unless otherwise extended or waived by the commission, and shall be requisite to the continuation of employment.~~

~~—(3))~~ The commission shall provide the training required in this section, together with facilities, supplies, materials, and the room and board for noncommuting attendees.

~~((4) Nothing in this section shall affect or impair the employment status of any employee whose employer does not provide him with the opportunity to engage in the required training.))~~

Sec. 2. RCW 43.101.350 and 1997 c 351 s 10 are each amended to read as follows:

(1) All law enforcement personnel initially hired to, transferred to, or promoted to a supervisory or management position on or after January 1, 1999, and all corrections personnel of the state and all counties and municipal corporations transferred or promoted to a supervisory or management position on or after January 1, 1982, shall, within the first six months of entry into the position, successfully complete the core training requirements prescribed by rule of the commission for the position, or obtain a waiver or extension of the core training requirements from the commission.

(2) Within one year after completion of the core training requirements of this section, all law enforcement personnel and corrections personnel shall successfully complete all remaining requirements for career level certification prescribed by rule of the commission applicable to their position or rank, or obtain a waiver or extension of the career level training requirements from the commission.

(3) The commission shall provide the training required in this section, together with facilities, supplies, materials, and the room and board for attendees who do not live within fifty miles of the training center. The training shall be delivered in the least disruptive manner to local law enforcement or corrections agencies, and will include but not be limited to regional on-site training, interactive training, and credit for training given by the home department.

(4) Nothing in this section affects or impairs the employment status of an employee whose employer does not provide the opportunity to engage in the required training."

Correct the title.

and the same are herewith transmitted.

RICHARD NAFZIGER, Chief Clerk

MOTION

Senator Brandland moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5634.

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Senator Brandland spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Brandland that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5634.

The motion by Senator Brandland carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 5634 by voice vote.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5634, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5634, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 0; Excused, 3.

Voting yea: Senators Benton, Berkey, Brandland, Carrell, Clements, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, Murray, Oemig, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Tom, Weinstein and Zarelli – 46

Excused: Senators Brown, Morton and Parlette – 3

SUBSTITUTE SENATE BILL NO. 5634, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

On motion of Senator Regala, Senator Pridemore was excused.

MESSAGE FROM THE HOUSE

March 30, 2007

MR. PRESIDENT:

The House has passed SUBSTITUTE SENATE BILL NO. 5639, with the following amendment: 5639-S AMH CL H3097.3

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 66.24.244 and 2006 c 302 s 3 and 2006 c 44 s 2 are each reenacted and amended to read as follows:

(1) There shall be a license for microbreweries; fee to be one hundred dollars for production of less than sixty thousand barrels of malt liquor, including strong beer, per year.

(2) Any microbrewery (~~(license)~~) licensed under this section may also act as a distributor and/or retailer for beer and strong beer of its own production. Any microbrewery licensed under this section may act as a distributor for beer of its own production. Strong beer may not be sold at a farmers market or under any endorsement which may authorize microbreweries to sell beer at farmers markets. Any microbrewery operating as a distributor and/or retailer under this subsection shall comply with the applicable laws and rules relating to distributors and/or retailers. A microbrewery holding a spirits, beer, and wine restaurant license may sell beer of its own production for off-premises consumption from its restaurant premises in kegs or in a sanitary container brought to the premises by the purchaser or furnished by the licensee and filled at the tap by the licensee at the time of sale.

(3) The board may issue a license allowing a microbrewery to operate a spirits, beer, and wine restaurant under RCW 66.24.420.

(4) The board may issue (~~(an endorsement to this)~~) a license to a microbrewery allowing for on-premises consumption of beer, including strong beer, wine, or both of other manufacture

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if purchased from a Washington state-licensed distributor. (~~(Each endorsement shall cost two hundred dollars per year, or four hundred dollars per year allowing the sale and service of both beer and wine.~~

~~(4))~~ The microbrewer (~~(obtaining such endorsement)~~) must determine, at the time the (~~(endorsement)~~) license is issued, whether the licensed premises will be operated (~~(either)~~) as a tavern with persons under twenty-one years of age not allowed as provided for in RCW 66.24.330, or as a beer and/or wine restaurant as described in RCW 66.24.320.

(5) A microbrewery that holds a spirits, beer, and wine restaurant license or a beer and/or wine restaurant license shall hold the same privileges and endorsements as permitted under RCW 66.24.320 and 66.24.420.

(6)(a) A microbrewery licensed under this section may apply to the board for an endorsement to sell bottled beer of its own production at retail for off-premises consumption at a qualifying farmers market. The annual fee for this endorsement is seventy-five dollars.

(b) For each month during which a microbrewery will sell beer at a qualifying farmers market, the microbrewery must provide the board or its designee a list of the dates, times, and locations at which bottled beer may be offered for sale. This list must be received by the board before the microbrewery may offer beer for sale at a qualifying farmers market.

(c) The beer sold at qualifying farmers markets must be produced in Washington.

(d) Each approved location in a qualifying farmers market is deemed to be part of the microbrewery license for the purpose of this title. The approved locations under an endorsement granted under this subsection (~~((5))~~) (6) do not constitute the tasting or sampling privilege of a microbrewery. The microbrewery may not store beer at a farmers market beyond the hours that the microbrewery offers bottled beer for sale. The microbrewery may not act as a distributor from a farmers market location.

(e) Before a microbrewery may sell bottled beer at a qualifying farmers market, the farmers market must apply to the board for authorization for any microbrewery with an endorsement approved under this subsection (~~((5))~~) (6) to sell bottled beer at retail at the farmers market. This application shall include, at a minimum: (i) A map of the farmers market showing all booths, stalls, or other designated locations at which an approved microbrewery may sell bottled beer; and (ii) the name and contact information for the on-site market managers who may be contacted by the board or its designee to verify the locations at which bottled beer may be sold. Before authorizing a qualifying farmers market to allow an approved microbrewery to sell bottled beer at retail at its farmers market location, the board shall notify the persons or entities of the application for authorization pursuant to RCW 66.24.010 (8) and (9). An authorization granted under this subsection (~~((5))~~) (6)(e) may be withdrawn by the board for any violation of this title or any rules adopted under this title.

(f) The board may adopt rules establishing the application and approval process under this section and any additional rules necessary to implement this section.

(g) For the purposes of this subsection (~~((5))~~) (6):

(i) "Qualifying farmers market" means an entity that sponsors a regular assembly of vendors at a defined location for the purpose of promoting the sale of agricultural products grown or produced in this state directly to the consumer under conditions that meet the following minimum requirements:

(A) There are at least five participating vendors who are farmers selling their own agricultural products;

(B) The total combined gross annual sales of vendors who are farmers exceeds the total combined gross annual sales of vendors who are processors or resellers;

(C) The total combined gross annual sales of vendors who are farmers, processors, or resellers exceeds the total combined gross annual sales of vendors who are not farmers, processors, or resellers;

(D) The sale of imported items and secondhand items by any vendor is prohibited; and

(E) No vendor is a franchisee.

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(ii) "Farmer" means a natural person who sells, with or without processing, agricultural products that he or she raises on land he or she owns or leases in this state or in another state's county that borders this state.

(iii) "Processor" means a natural person who sells processed food that he or she has personally prepared on land he or she owns or leases in this state or in another state's county that borders this state.

(iv) "Reseller" means a natural person who buys agricultural products from a farmer and resells the products directly to the consumer.

Sec. 2. RCW 66.24.244 and 2006 c 44 s 2 are each amended to read as follows:

(1) There shall be a license for microbreweries; fee to be one hundred dollars for production of less than sixty thousand barrels of malt liquor, including strong beer, per year.

(2) Any microbrewery (~~(license)~~) licensed under this section may also act as a distributor and/or retailer for beer and strong beer of its own production. Strong beer may not be sold at a farmers market or under any endorsement which may authorize microbreweries to sell beer at farmers markets. Any microbrewery operating as a distributor and/or retailer under this subsection shall comply with the applicable laws and rules relating to distributors and/or retailers. A microbrewery holding a spirits, beer, and wine restaurant license may sell beer of its own production for off-premises consumption from its restaurant premises in kegs or in a sanitary container brought to the premises by the purchaser or furnished by the licensee and filled at the tap by the licensee at the time of sale.

(3) The board may issue a license allowing a microbrewery to operate a spirits, beer, and wine restaurant under RCW 66.24.420.

~~(4) The board may issue ((an endorsement to this)) a license to a microbrewery allowing for on-premises consumption of beer, including strong beer, wine, or both of other manufacture if purchased from a Washington state-licensed distributor. ((Each endorsement shall cost two hundred dollars per year, or four hundred dollars per year allowing the sale and service of both beer and wine.~~

~~((4)) The microbrewer ((obtaining such endorsement)) must determine, at the time the ((endorsement)) license is issued, whether the licensed premises will be operated ((either)) as a tavern with persons under twenty-one years of age not allowed as provided for in RCW 66.24.330, or as a beer and/or wine restaurant as described in RCW 66.24.320.~~

(5) A microbrewery that holds a spirits, beer, and wine restaurant license or a beer and/or wine restaurant license shall hold the same privileges and endorsements as permitted under RCW 66.24.320 and 66.24.420.

(6)(a) A microbrewery licensed under this section may apply to the board for an endorsement to sell bottled beer of its own production at retail for off-premises consumption at a qualifying farmers market. The annual fee for this endorsement is seventy-five dollars.

(b) For each month during which a microbrewery will sell beer at a qualifying farmers market, the microbrewery must provide the board or its designee a list of the dates, times, and locations at which bottled beer may be offered for sale. This list must be received by the board before the microbrewery may offer beer for sale at a qualifying farmers market.

(c) The beer sold at qualifying farmers markets must be produced in Washington.

(d) Each approved location in a qualifying farmers market is deemed to be part of the microbrewery license for the purpose of this title. The approved locations under an endorsement granted under this subsection ~~((5))~~ (6) do not constitute the tasting or sampling privilege of a microbrewery. The microbrewery may not store beer at a farmers market beyond the hours that the microbrewery offers bottled beer for sale. The microbrewery may not act as a distributor from a farmers market location.

(e) Before a microbrewery may sell bottled beer at a qualifying farmers market, the farmers market must apply to the board for authorization for any microbrewery with an endorsement approved under this subsection ~~((5))~~ (6) to sell bottled beer at retail at the farmers market. This application

shall include, at a minimum: (i) A map of the farmers market showing all booths, stalls, or other designated locations at which an approved microbrewery may sell bottled beer; and (ii) the name and contact information for the on-site market managers who may be contacted by the board or its designee to verify the locations at which bottled beer may be sold. Before authorizing a qualifying farmers market to allow an approved microbrewery to sell bottled beer at retail at its farmers market location, the board shall notify the persons or entities of the application for authorization pursuant to RCW 66.24.010 (8) and (9). An authorization granted under this subsection ~~((5))~~ (6)(e) may be withdrawn by the board for any violation of this title or any rules adopted under this title.

(f) The board may adopt rules establishing the application and approval process under this section and any additional rules necessary to implement this section.

(g) For the purposes of this subsection ~~((5))~~ (6):

(i) "Qualifying farmers market" means an entity that sponsors a regular assembly of vendors at a defined location for the purpose of promoting the sale of agricultural products grown or produced in this state directly to the consumer under conditions that meet the following minimum requirements:

(A) There are at least five participating vendors who are farmers selling their own agricultural products;

(B) The total combined gross annual sales of vendors who are farmers exceeds the total combined gross annual sales of vendors who are processors or resellers;

(C) The total combined gross annual sales of vendors who are farmers, processors, or resellers exceeds the total combined gross annual sales of vendors who are not farmers, processors, or resellers;

(D) The sale of imported items and secondhand items by any vendor is prohibited; and

(E) No vendor is a franchisee.

(ii) "Farmer" means a natural person who sells, with or without processing, agricultural products that he or she raises on land he or she owns or leases in this state or in another state's county that borders this state.

(iii) "Processor" means a natural person who sells processed food that he or she has personally prepared on land he or she owns or leases in this state or in another state's county that borders this state.

(iv) "Reseller" means a natural person who buys agricultural products from a farmer and resells the products directly to the consumer.

Sec. 3. RCW 66.28.010 and 2006 c 330 s 28, 2006 c 92 s 1, and 2006 c 43 s 1 are each reenacted and amended to read as follows:

(1)(a) No manufacturer, importer, distributor, or authorized representative, or person financially interested, directly or indirectly, in such business; whether resident or nonresident, shall have any financial interest, direct or indirect, in any licensed retail business, unless the retail business is owned by a corporation in which a manufacturer or importer has no direct stock ownership and there are no interlocking officers and directors, the retail license is held by a corporation that is not owned directly or indirectly by a manufacturer or importer, the sales of liquor are incidental to the primary activity of operating the property as a hotel, alcoholic beverages produced by the manufacturer or importer or their subsidiaries are not sold at the licensed premises, and the board reviews the ownership and proposed method of operation of all involved entities and determines that there will not be an unacceptable level of control or undue influence over the operation or the retail licensee; nor shall any manufacturer, importer, distributor, or authorized representative own any of the property upon which such licensed persons conduct their business; nor shall any such licensed person, under any arrangement whatsoever, conduct his or her business upon property in which any manufacturer, importer, distributor, or authorized representative has any interest unless title to that property is owned by a corporation in which a manufacturer has no direct stock ownership and there are no interlocking officers or directors, the retail license is held by a corporation that is not owned directly or indirectly by the manufacturer, the sales of liquor are incidental to the primary

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activity of operating the property either as a hotel or as an amphitheater offering live musical and similar live entertainment activities to the public, alcoholic beverages produced by the manufacturer or any of its subsidiaries are not sold at the licensed premises, and the board reviews the ownership and proposed method of operation of all involved entities and determines that there will not be an unacceptable level of control or undue influence over the operation of the retail licensee. Except as provided in subsection (3) of this section, no manufacturer, importer, distributor, or authorized representative shall advance moneys or moneys' worth to a licensed person under an arrangement, nor shall such licensed person receive, under an arrangement, an advance of moneys or moneys' worth. "Person" as used in this section only shall not include those state or federally chartered banks, state or federally chartered savings and loan associations, state or federally chartered mutual savings banks, or institutional investors which are not controlled directly or indirectly by a manufacturer, importer, distributor, or authorized representative as long as the bank, savings and loan association, or institutional investor does not influence or attempt to influence the purchasing practices of the retailer with respect to alcoholic beverages. Except as otherwise provided in this section, no manufacturer, importer, distributor, or authorized representative shall be eligible to receive or hold a retail license under this title, nor shall such manufacturer, importer, distributor, or authorized representative sell at retail any liquor as herein defined. A corporation granted an exemption under this subsection may use debt instruments issued in connection with financing construction or operations of its facilities.

(b) Nothing in this section shall prohibit a licensed domestic brewery or microbrewery from being licensed as a retailer pursuant to chapter 66.24 RCW for the purpose of selling beer or wine at retail on the brewery premises and nothing in this section shall prohibit a domestic winery from being licensed as a retailer pursuant to chapter 66.24 RCW for the purpose of selling beer or wine at retail on the winery premises. Such beer and wine so sold at retail shall be subject to the taxes imposed by RCW 66.24.290 and 66.24.210 and to reporting and bonding requirements as prescribed by regulations adopted by the board pursuant to chapter 34.05 RCW, and beer and wine that is not produced by the brewery or winery shall be purchased from a licensed beer or wine distributor. Nothing in this section shall prohibit a microbrewery holding a beer and/or wine restaurant license under RCW 66.24.320 from holding the same privileges and endorsements attached to the beer and/or wine restaurant license.

(c) Nothing in this section shall prohibit a licensed distiller, domestic brewery, microbrewery, domestic winery, or a lessee of a licensed domestic brewer, microbrewery, or domestic winery, from being licensed as a spirits, beer, and wine restaurant pursuant to chapter 66.24 RCW for the purpose of selling liquor at a spirits, beer, and wine restaurant premises on the property on which the primary manufacturing facility of the licensed distiller, domestic brewer, microbrewery, or domestic winery is located or on contiguous property owned or leased by the licensed distiller, domestic brewer, microbrewery, or domestic winery as prescribed by rules adopted by the board pursuant to chapter 34.05 RCW. Nothing in this section shall prohibit a microbrewery holding a spirits, beer, and wine restaurant license under RCW 66.24.420 from holding the same privileges and endorsements attached to the spirits, beer, and wine restaurant license.

(d) Nothing in this section prohibits retail licensees with a caterer's endorsement issued under RCW 66.24.320 or 66.24.420 from operating on a domestic winery premises.

(e) Nothing in this section prohibits an organization qualifying under RCW 66.24.375 formed for the purpose of constructing and operating a facility to promote Washington wines from holding retail licenses on the facility property or leasing all or any portion of such facility property to a retail licensee on the facility property if the members of the board of directors or officers of the board for the organization include officers, directors, owners, or employees of a licensed domestic

winery. Financing for the construction of the facility must include both public and private money.

(f) Nothing in this section prohibits a bona fide charitable nonprofit society or association registered as a 501(c)(3) under the internal revenue code and having an officer, director, owner, or employee of a licensed domestic winery or a wine certificate of approval holder on its board of directors from holding a special occasion license under RCW 66.24.380.

(g) Nothing in this section prohibits domestic wineries and retailers licensed under chapter 66.24 RCW from jointly producing brochures and materials promoting tourism in Washington state which contain information regarding retail licensees, domestic wineries, and their products.

(h) Nothing in this section prohibits domestic wineries and retail licensees from identifying the wineries on private labels authorized under RCW 66.24.400, 66.24.425, and 66.24.450.

(i) Until July 1, 2007, nothing in this section prohibits a nonprofit statewide organization of microbreweries formed for the purpose of promoting Washington's craft beer industry as a trade association registered as a 501(c) with the internal revenue service from holding a special occasion license to conduct up to six beer festivals.

(2) Financial interest, direct or indirect, as used in this section, shall include any interest, whether by stock ownership, mortgage, lien, or through interlocking directors, or otherwise. Pursuant to rules promulgated by the board in accordance with chapter 34.05 RCW manufacturers, distributors, and importers may perform, and retailers may accept the service of building, rotating and restocking case displays and stock room inventories; rotating and rearranging can and bottle displays of their own products; provide point of sale material and brand signs; price case goods of their own brands; and perform such similar normal business services as the board may by regulation prescribe.

(3)(a) This section does not prohibit a manufacturer, importer, or distributor from providing services to a special occasion licensee for: (i) Installation of draft beer dispensing equipment or advertising, (ii) advertising, pouring, or dispensing of beer or wine at a beer or wine tasting exhibition or judging event, or (iii) a special occasion licensee from receiving any such services as may be provided by a manufacturer, importer, or distributor. Nothing in this section shall prohibit a retail licensee, or any person financially interested, directly or indirectly, in such a retail licensee from having a financial interest, direct or indirect, in a business which provides, for a compensation commensurate in value to the services provided, bottling, canning or other services to a manufacturer, so long as the retail licensee or person interested therein has no direct financial interest in or control of said manufacturer.

(b) A person holding contractual rights to payment from selling a liquor distributor's business and transferring the license shall not be deemed to have a financial interest under this section if the person (i) lacks any ownership in or control of the distributor, (ii) is not employed by the distributor, and (iii) does not influence or attempt to influence liquor purchases by retail liquor licensees from the distributor.

(c) The board shall adopt such rules as are deemed necessary to carry out the purposes and provisions of subsection (3)(a) of this section in accordance with the administrative procedure act, chapter 34.05 RCW.

(4) A license issued under RCW 66.24.395 does not constitute a retail license for the purposes of this section.

(5) A public house license issued under RCW 66.24.580 does not violate the provisions of this section as to a retailer having an interest directly or indirectly in a liquor-licensed manufacturer.

NEW SECTION. Sec. 4. Section 1 of this act expires June 30, 2008.

NEW SECTION. Sec. 5. Section 2 of this act takes effect June 30, 2008."

and the same are herewith transmitted.

RICHARD NAFZIGER, Chief Clerk

MOTION

Senator Spanel moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5639.

Senators Spanel and Clements spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Spanel that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5639.

The motion by Senator Spanel carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 5639 by voice vote.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5639, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5639, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 45; Nays, 0; Absent, 0; Excused, 4.

Voting yea: Senators Benton, Berkey, Brandland, Carrell, Clements, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, Murray, Oemig, Pflug, Poulsen, Prentice, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Tom, Weinstein and Zarelli - 45

Excused: Senators Brown, Morton, Parlette and Pridemore - 4

SUBSTITUTE SENATE BILL NO. 5639, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

April 9, 2007

MR. PRESIDENT:

The House has passed SECOND SUBSTITUTE SENATE BILL NO. 5652, with the following amendment: 5652-S2 AMH ENGR H3330.E

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. (1) The legislature finds that:

(a) Microenterprises are an important portion of Washington's economy, providing approximately twenty percent of the employment in Washington and playing a vital role in job creation.

(b) While community-based microenterprise development organizations have expanded their assistance to their microentrepreneur customers in recent years, there remains a lack of access to capital, training, and technical assistance for low-income microentrepreneurs.

(c) Support for microenterprise development offers a means to expand business and job creation in low-income communities in both rural and urban areas of the state.

(d) Local and state charitable foundation support, federal program funding, and private sector support can be leveraged by a statewide program for development of microenterprises.

(2) It is the purpose of this act to assist microenterprises in job creation by increasing the training, technical assistance, and financial resources available to microenterprises. It is the intention of the legislature to carry out this purpose by enabling the department of community, trade, and economic development to contract with a statewide microenterprise association with the potential to provide organizational support and administer grants to local microenterprise development organizations, subject to the requirements of this act, and to leverage additional funds from sources other than moneys appropriated from the general fund.

Sec. 2. RCW 43.330.010 and 1993 c 280 s 3 are each amended to read as follows:

Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Associate development organization" means a local economic development nonprofit corporation that is broadly representative of community interests.

(2) "Department" means the department of community, trade, and economic development.

(3) "Director" means the director of the department of community, trade, and economic development.

(4) "Financial institution" means a bank, trust company, mutual savings bank, savings and loan association, or credit union authorized to do business in this state under state or federal law.

(5) "Microenterprise development organization" means a community development corporation, a nonprofit development organization, a nonprofit social services organization or other locally operated nonprofit entity that provides services to low-income entrepreneurs.

(6) "Statewide microenterprise association" means a nonprofit entity with microenterprise development organizations as members that serves as an intermediary between the department of community, trade, and economic development and local microenterprise development organizations.

NEW SECTION. Sec. 3. A new section is added to chapter 43.330 RCW to read as follows:

The microenterprise development program is established in the department of community, trade, and economic development. In implementing the program, the department:

(1) Shall provide organizational support to a statewide microenterprise association and shall contract with the association for the delivery of services and distribution of grants;

(a) The association shall serve as the department's agent in carrying out the purpose and service delivery requirements of this section;

(b) The association's contract with the department shall specify that in administering the funds provided for under subsection (3) of this section, the association may use no greater than ten percent of the funds to cover administrative expenses;

(2) Shall provide funds for capacity building for the statewide microenterprise association and microenterprise development organizations throughout the state;

(3) Shall provide grants to microenterprise development organizations for the delivery of training and technical assistance services;

(4) Shall identify and facilitate the availability of state, federal, and private sources of funds which may enhance microenterprise development in the state;

(5) Shall develop with the statewide microenterprise association criteria for the distribution of grants to microenterprise development organizations. Such criteria may include:

(a) The geographic representation of all regions of the state, including both urban and rural communities;

(b) The ability of the microenterprise development organization to provide business development services in low-income communities;

(c) The scope of services offered by a microenterprise development organization and their efficiency in delivery of such services;

(d) The ability of the microenterprise development organization to monitor the progress of its customers and identify technical and financial assistance needs;

(e) The ability of the microenterprise development organization to work with other organizations, public entities, and financial institutions to meet the technical and financial assistance needs of its customers;

(f) The sufficiency of operating funds for the microenterprise development organization; and

(g) Such other criteria as agreed by the department and the association;

(6) Shall require the statewide microenterprise association and any microenterprise development organization receiving funds from the microenterprise development program to raise

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and contribute to the effort funded by the microenterprise development program an amount equal to twenty-five percent of the microenterprise development program funds received. Such matching funds may come from private foundations, federal or local sources, financial institutions, or any other source other than funds appropriated from the legislature;

(7) Shall require under its contract with the statewide microenterprise association an annual accounting of program outcomes, including job creation, access to capital, leveraging of nonstate funds, and other outcome measures specified by the department. By January 1, 2012, the joint legislative audit and review committee shall use these outcome data and other relevant information to evaluate the program's effectiveness; and

(8) May adopt rules as necessary to implement this section.

NEW SECTION. Sec. 4. If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2007, in the omnibus appropriations act, this act is null and void."

Correct the title.

and the same are herewith transmitted.

RICHARD NAFZIGER, Chief Clerk

MOTION

Senator Kauffman moved that the Senate concur in the House amendment(s) to Second Substitute Senate Bill No. 5652. Senator Kauffman spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Kauffman that the Senate concur in the House amendment(s) to Second Substitute Senate Bill No. 5652.

The motion by Senator Kauffman carried and the Senate concurred in the House amendment(s) to Second Substitute Senate Bill No. 5652 by voice vote.

The President declared the question before the Senate to be the final passage of Second Substitute Senate Bill No. 5652, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Second Substitute Senate Bill No. 5652, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 45; Nays, 0; Absent, 0; Excused, 4.

Voting yea: Senators Benton, Berkey, Brandland, Carrell, Clements, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, Murray, Oemig, Pflug, Poulsen, Prentice, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Tom, Weinstein and Zarelli - 45

Excused: Senators Brown, Morton, Parlette and Pridemore - 4

SECOND SUBSTITUTE SENATE BILL NO. 5652, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

April 6, 2007

MR. PRESIDENT:

The House has passed SUBSTITUTE SENATE BILL NO. 5653, with the following amendment: 5653-S AMH APP H3337.1

Strike everything after the enacting clause and insert the following:

"**NEW SECTION. Sec. 1.** A new section is added to chapter 50.20 RCW to read as follows:

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(1) The legislature finds that the establishment of a self-employment assistance program would assist unemployed individuals and create new businesses and job opportunities in Washington state. The department shall inform individuals identified as likely to exhaust regular unemployment benefits of the opportunity to enroll in commissioner-approved self-employment assistance programs.

(2) An unemployed individual is eligible to participate in a self-employment assistance program if it has been determined that he or she:

(a) Is otherwise eligible for regular benefits as defined in RCW 50.22.010;

(b) Has been identified as likely to exhaust regular unemployment benefits under a profiling system established by the commissioner as defined in P.L. 103-152; and

(c) Is enrolled in a self-employment assistance program that is approved by the commissioner, and includes entrepreneurial training, business counseling, technical assistance, and requirements to engage in activities relating to the establishment of a business and becoming self-employed.

(3) Individuals participating in a self-employment assistance program approved by the commissioner are eligible to receive their regular unemployment benefits.

(a) The requirements of RCW 50.20.010 and 50.20.080 relating to availability for work, active search for work, and refusal to accept suitable work are not applicable to an individual in the self-employment assistance program for the first fifty-two weeks of the individual's participation in the program. However, enrollment in a self-employment assistance program does not entitle the enrollee to any benefit payments he or she would not be entitled to had he or she not enrolled in the program.

(b) An individual who meets the requirements of this section is considered to be "unemployed" under RCW 50.04.310 and 50.20.010.

(4) An individual who fails to participate in his or her approved self-employment assistance program as prescribed by the commissioner is disqualified from continuation in the program.

(5) An individual completing the program may not directly compete with his or her separating employer for a specific time period and in a specific geographic area. The time period may not, in any case, exceed one year. Both the time period and the geographic area must be reasonable, considering the following factors:

(a) Whether restraining the individual from performing services is necessary for the protection of the employer or the employer's goodwill;

(b) Whether the agreement harms the individual more than is reasonably necessary to secure the employer's business or goodwill; and

(c) Whether the loss of the employee's services and skills injures the public to a degree warranting nonenforcement of the agreement.

(6) The commissioner shall take all steps necessary in carrying out this section to assure collaborative involvement of interested parties in program development, and to ensure that the self-employment assistance programs meet all federal criteria for withdrawal from the unemployment fund. The commissioner may approve, as self-employment assistance programs, existing self-employment training programs available through community colleges, work force investment boards, or other organizations and is not obligated by this section to expend any departmental funds for the operation of self-employment assistance programs, unless specific funding is provided to the department for that purpose through federal or state appropriations.

(7) The commissioner may adopt rules as necessary to implement this section.

Sec. 2. RCW 50.20.095 and 1980 c 74 s 4 are each amended to read as follows:

Any individual registered at an established school in a course of study providing scholastic instruction of twelve or more hours per week, or the equivalent thereof, shall be disqualified from receiving benefits or waiting period credit for

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any week during the school term commencing with the first week of such scholastic instruction or the week of leaving employment to return to school, whichever is the earlier, and ending with the week immediately before the first full week in which the individual is no longer registered for twelve or more hours of scholastic instruction per week: PROVIDED, That registration for less than twelve hours will be for a period of sixty days or longer. The term "school" includes primary schools, secondary schools, and "institutions of higher education" as that phrase is defined in RCW 50.44.037.

This disqualification shall not apply to any individual who:

(1) Is in approved training within the meaning of RCW 50.20.043; ((or))

(2) Is in an approved self-employment assistance program under section 1 of this act; or

(3) Demonstrates to the commissioner by a preponderance of the evidence his or her actual availability for work, and in arriving at this determination the commissioner shall consider the following factors:

- (a) Prior work history;
- (b) Scholastic history;
- (c) Past and current labor market attachment; and
- (d) Past and present efforts to seek work.

NEW SECTION. Sec. 3. By December 1, 2011, the employment security department shall report to the house of representatives commerce and labor committee and the senate labor, commerce, research and development committee on the performance of the self-employment assistance program. The report shall include an analysis of the following:

- (1) Self-employment impacts;
- (2) Wage and salary outcomes;
- (3) Benefit payment outcomes; and
- (4) A cost-benefit analysis.

NEW SECTION. Sec. 4. This act takes effect January 1, 2008.

NEW SECTION. Sec. 5. The commissioner of employment security may take the necessary steps to ensure that this act is implemented on its effective date.

NEW SECTION. Sec. 6. This act expires July 1, 2012."

Correct the title.

and the same are herewith transmitted.

RICHARD NAFZIGER, Chief Clerk

MOTION

Senator Kauffman moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5653.

Senators Kauffman and Clements spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Kauffman that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5653.

The motion by Senator Kauffman carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 5653 by voice vote.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5653, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5653, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 44; Nays, 2; Absent, 0; Excused, 3.

Voting yea: Senators Benton, Berkey, Brandland, Carrell, Clements, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, Murray, Oemig, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Tom, Weinstein and Zarelli -

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Voting nay: Senators Honeyford and McCaslin - 2

Excused: Senators Brown, Morton and Parlette - 3

SUBSTITUTE SENATE BILL NO. 5653, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

March 30, 2007

MR. PRESIDENT:

The House has passed SUBSTITUTE SENATE BILL NO. 5674, with the following amendment: 5674-S AMH LG H3081.1

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. A new section is added to chapter 57.12 RCW to read as follows:

If the district has fewer than one hundred residents, and if the filing period is reopened for a district commissioner under RCW 29A.24.171 or 29A.24.181 due to a void in candidacy, any person who is a qualified elector of the state of Washington and who holds title or evidence of title to land in the district may file as a candidate for and serve as a district commissioner.

NEW SECTION. Sec. 2. A new section is added to chapter 29A.24 RCW to read as follows:

A void in candidacy in a water-sewer district with fewer than one hundred residents may be filled in accordance with section 1 of this act."

Correct the title.

and the same are herewith transmitted.

RICHARD NAFZIGER, Chief Clerk

MOTION

Senator Fairley moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5674.

Senator Fairley spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Fairley that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5674.

The motion by Senator Fairley carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 5674 by voice vote.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5674, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5674, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 0; Excused, 3.

Voting yea: Senators Benton, Berkey, Brandland, Carrell, Clements, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, Murray, Oemig, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Tom, Weinstein and Zarelli - 46

Excused: Senators Brown, Morton and Parlette - 3

SUBSTITUTE SENATE BILL NO. 5674, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

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April 6, 2007

MR. PRESIDENT:

The House has passed ENGROSSED SENATE BILL NO. 5675, with the following amendment: 5675.E AMH APP H3338.1

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 51.32.050 and 1995 c 199 s 6 are each amended to read as follows:

(1) Where death results from the injury the expenses of burial not to exceed two hundred percent of the average monthly wage in the state as defined in RCW 51.08.018 shall be paid.

(2)(a) Where death results from the injury, a surviving spouse of a deceased worker eligible for benefits under this title shall receive monthly for life or until remarriage payments according to the following schedule:

(i) If there are no children of the deceased worker, sixty percent of the wages of the deceased worker (~~but not less than one hundred eighty-five dollars~~);

(ii) If there is one child of the deceased worker and in the legal custody of such spouse, sixty-two percent of the wages of the deceased worker (~~but not less than two hundred twenty-two dollars~~);

(iii) If there are two children of the deceased worker and in the legal custody of such spouse, sixty-four percent of the wages of the deceased worker (~~but not less than two hundred fifty-three dollars~~);

(iv) If there are three children of the deceased worker and in the legal custody of such spouse, sixty-six percent of the wages of the deceased worker (~~but not less than two hundred seventy-six dollars~~);

(v) If there are four children of the deceased worker and in the legal custody of such spouse, sixty-eight percent of the wages of the deceased worker (~~but not less than two hundred ninety-nine dollars~~); or

(vi) If there are five or more children of the deceased worker and in the legal custody of such spouse, seventy percent of the wages of the deceased worker (~~but not less than three hundred twenty-two dollars~~).

(b) Where the surviving spouse does not have legal custody of any child or children of the deceased worker or where after the death of the worker legal custody of such child or children passes from such surviving spouse to another, any payment on account of such child or children not in the legal custody of the surviving spouse shall be made to the person or persons having legal custody of such child or children. The amount of such payments shall be five percent of the monthly benefits payable as a result of the worker's death for each such child but such payments shall not exceed twenty-five percent. Such payments on account of such child or children shall be subtracted from the amount to which such surviving spouse would have been entitled had such surviving spouse had legal custody of all of the children and the surviving spouse shall receive the remainder after such payments on account of such child or children have been subtracted. Such payments on account of a child or children not in the legal custody of such surviving spouse shall be apportioned equally among such children.

(c) Payments to the surviving spouse of the deceased worker shall cease at the end of the month in which remarriage occurs: PROVIDED, That a monthly payment shall be made to the child or children of the deceased worker from the month following such remarriage in a sum equal to five percent of the wages of the deceased worker for one child and a sum equal to five percent for each additional child up to a maximum of five such children. Payments to such child or children shall be apportioned equally among such children. Such sum shall be in place of any payments theretofore made for the benefit of or on account of any such child or children. If the surviving spouse does not have legal custody of any child or children of the deceased worker, or if after the death of the worker, legal custody of such child or children passes from such surviving spouse to another, any payment on account of such child or

children not in the legal custody of the surviving spouse shall be made to the person or persons having legal custody of such child or children.

(d) In no event shall the monthly payments provided in subsection (2) of this section:

(i) Exceed the applicable percentage of the average monthly wage in the state as computed under RCW 51.08.018 as follows:

AFTER	PERCENTAGE
June 30, 1993	105%
June 30, 1994	110%
June 30, 1995	115%
June 30, 1996	120%

(ii) For dates of injury or disease manifestation after July 1, 2008, be less than fifteen percent of the average monthly wage in the state as computed under RCW 51.08.018 plus an additional ten dollars per month for a surviving spouse and an additional ten dollars per month for each child of the worker up to a maximum of five children. However, if the monthly payment computed under this subsection (2)(d)(ii) is greater than one hundred percent of the wages of the deceased worker as determined under RCW 51.08.178, the monthly payment due to the surviving spouse shall be equal to the greater of the monthly wages of the deceased worker or the minimum benefit set forth in this section on June 30, 2008.

(e) In addition to the monthly payments provided for in subsection (2)(a) through (c) of this section, a surviving spouse or child or children of such worker if there is no surviving spouse, or dependent parent or parents, if there is no surviving spouse or child or children of any such deceased worker shall be forthwith paid a sum equal to one hundred percent of the average monthly wage in the state as defined in RCW 51.08.018, any such children, or parents to share and share alike in said sum.

(f) Upon remarriage of a surviving spouse the monthly payments for the child or children shall continue as provided in this section, but the monthly payments to such surviving spouse shall cease at the end of the month during which remarriage occurs. However, after September 8, 1975, an otherwise eligible surviving spouse of a worker who died at any time prior to or after September 8, 1975, shall have an option of:

(i) Receiving, once and for all, a lump sum of twenty-four times the monthly compensation rate in effect on the date of remarriage allocable to the spouse for himself or herself pursuant to subsection (2)(a)(i) of this section and subject to any modifications specified under subsection (2)(d) of this section and RCW 51.32.075(3) or fifty percent of the then remaining annuity value of his or her pension, whichever is the lesser: PROVIDED, That if the injury occurred prior to July 28, 1991, the remarriage benefit lump sum available shall be as provided in the remarriage benefit schedules then in effect; or

(ii) If a surviving spouse does not choose the option specified in subsection (2)(f)(i) of this section to accept the lump sum payment, the remarriage of the surviving spouse of a worker shall not bar him or her from claiming the lump sum payment authorized in subsection (2)(f)(i) of this section during the life of the remarriage, or shall not prevent subsequent monthly payments to him or to her if the remarriage has been terminated by death or has been dissolved or annulled by valid court decree provided he or she has not previously accepted the lump sum payment.

(g) If the surviving spouse during the remarriage should die without having previously received the lump sum payment provided in subsection (2)(f)(i) of this section, his or her estate shall be entitled to receive the sum specified under subsection (2)(f)(i) of this section or fifty percent of the then remaining annuity value of his or her pension whichever is the lesser.

(h) The effective date of resumption of payments under subsection (2)(f)(ii) of this section to a surviving spouse based upon termination of a remarriage by death, annulment, or dissolution shall be the date of the death or the date the judicial

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decree of annulment or dissolution becomes final and when application for the payments has been received.

(i) If it should be necessary to increase the reserves in the reserve fund or to create a new pension reserve fund as a result of the amendments in chapter 45, Laws of 1975-'76 2nd ex. sess., the amount of such increase in pension reserve in any such case shall be transferred to the reserve fund from the supplemental pension fund.

(3) If there is a child or children and no surviving spouse of the deceased worker or the surviving spouse is not eligible for benefits under this title, a sum equal to thirty-five percent of the wages of the deceased worker shall be paid monthly for one child and a sum equivalent to fifteen percent of such wage shall be paid monthly for each additional child, the total of such sum to be divided among such children, share and share alike: PROVIDED, That benefits under this subsection or subsection (4) of this section shall not exceed the lesser of sixty-five percent of the wages of the deceased worker at the time of his or her death or the applicable percentage of the average monthly wage in the state as defined in RCW 51.08.018, as follows:

AFTER	PERCENTAGE
June 30, 1993	105%
June 30, 1994	110%
June 30, 1995	115%
June 30, 1996	120%

(4) In the event a surviving spouse receiving monthly payments dies, the child or children of the deceased worker shall receive the same payment as provided in subsection (3) of this section.

(5) If the worker leaves no surviving spouse or child, but leaves a dependent or dependents, a monthly payment shall be made to each dependent equal to fifty percent of the average monthly support actually received by such dependent from the worker during the twelve months next preceding the occurrence of the injury, but the total payment to all dependents in any case shall not exceed the lesser of sixty-five percent of the wages of the deceased worker at the time of his or her death or the applicable percentage of the average monthly wage in the state as defined in RCW 51.08.018 as follows:

AFTER	PERCENTAGE
June 30, 1993	105%
June 30, 1994	110%
June 30, 1995	115%
June 30, 1996	120%

If any dependent is under the age of eighteen years at the time of the occurrence of the injury, the payment to such dependent shall cease when such dependent reaches the age of eighteen years except such payments shall continue until the dependent reaches age twenty-three while permanently enrolled at a full time course in an accredited school. The payment to any dependent shall cease if and when, under the same circumstances, the necessity creating the dependency would have ceased if the injury had not happened.

(6) For claims filed prior to July 1, 1986, if the injured worker dies during the period of permanent total disability, whatever the cause of death, leaving a surviving spouse, or child, or children, the surviving spouse or child or children shall receive benefits as if death resulted from the injury as provided in subsections (2) through (4) of this section. Upon remarriage or death of such surviving spouse, the payments to such child or children shall be made as provided in subsection (2) of this section when the surviving spouse of a deceased worker remarries.

(7) For claims filed on or after July 1, 1986, every worker who becomes eligible for permanent total disability benefits shall elect an option as provided in RCW 51.32.067.

Sec. 2. RCW 51.32.060 and 1993 c 521 s 2 are each amended to read as follows:

(1) When the supervisor of industrial insurance shall determine that permanent total disability results from the injury, the worker shall receive monthly during the period of such disability:

(a) If married at the time of injury, sixty-five percent of his or her wages (~~but not less than two hundred fifteen dollars per month~~).

(b) If married with one child at the time of injury, sixty-seven percent of his or her wages (~~but not less than two hundred fifty-two dollars per month~~).

(c) If married with two children at the time of injury, sixty-nine percent of his or her wages (~~but not less than two hundred eighty-three dollars~~).

(d) If married with three children at the time of injury, seventy-one percent of his or her wages (~~but not less than three hundred six dollars per month~~).

(e) If married with four children at the time of injury, seventy-three percent of his or her wages (~~but not less than three hundred twenty-nine dollars per month~~).

(f) If married with five or more children at the time of injury, seventy-five percent of his or her wages (~~but not less than three hundred fifty-two dollars per month~~).

(g) If unmarried at the time of the injury, sixty percent of his or her wages (~~but not less than one hundred eighty-five dollars per month~~).

(h) If unmarried with one child at the time of injury, sixty-two percent of his or her wages (~~but not less than two hundred twenty-two dollars per month~~).

(i) If unmarried with two children at the time of injury, sixty-four percent of his or her wages (~~but not less than two hundred fifty-three dollars per month~~).

(j) If unmarried with three children at the time of injury, sixty-six percent of his or her wages (~~but not less than two hundred seventy-six dollars per month~~).

(k) If unmarried with four children at the time of injury, sixty-eight percent of his or her wages (~~but not less than two hundred ninety-nine dollars per month~~).

(l) If unmarried with five or more children at the time of injury, seventy percent of his or her wages (~~but not less than three hundred twenty-two dollars per month~~).

(2) For any period of time where both husband and wife are entitled to compensation as temporarily or totally disabled workers, only that spouse having the higher wages of the two shall be entitled to claim their child or children for compensation purposes.

(3) In case of permanent total disability, if the character of the injury is such as to render the worker so physically helpless as to require the hiring of the services of an attendant, the department shall make monthly payments to such attendant for such services as long as such requirement continues, but such payments shall not obtain or be operative while the worker is receiving care under or pursuant to the provisions of chapter 51.36 RCW and RCW 51.04.105.

(4) Should any further accident result in the permanent total disability of an injured worker, he or she shall receive the pension to which he or she would be entitled, notwithstanding the payment of a lump sum for his or her prior injury.

(5) In no event shall the monthly payments provided in this section:

(a) Exceed the applicable percentage of the average monthly wage in the state as computed under the provisions of RCW 51.08.018 as follows:

AFTER	PERCENTAGE
June 30, 1993	105%
June 30, 1994	110%
June 30, 1995	115%
June 30, 1996	120%

(b) For dates of injury or disease manifestation after July 1, 2008, be less than fifteen percent of the average monthly wage

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in the state as computed under RCW 51.08.018 plus an additional ten dollars per month if a worker is married and an additional ten dollars per month for each child of the worker up to a maximum of five children. However, if the monthly payment computed under this subsection (5)(b) is greater than one hundred percent of the wages of the worker as determined under RCW 51.08.178, the monthly payment due to the worker shall be equal to the greater of the monthly wages of the worker or the minimum benefit set forth in this section on June 30, 2008.

The limitations under this subsection shall not apply to the payments provided for in subsection (3) of this section.

(6) In the case of new or reopened claims, if the supervisor of industrial insurance determines that, at the time of filing or reopening, the worker is voluntarily retired and is no longer attached to the work force, benefits shall not be paid under this section.

(7) The benefits provided by this section are subject to modification under RCW 51.32.067.

Sec. 3. RCW 51.32.090 and 1993 c 521 s 3, 1993 c 299 s 1, and 1993 c 271 s 1 are each reenacted and amended to read as follows:

(1) When the total disability is only temporary, the schedule of payments contained in RCW 51.32.060 (1) and (2) shall apply, so long as the total disability continues.

(2) Any compensation payable under this section for children not in the custody of the injured worker as of the date of injury shall be payable only to such person as actually is providing the support for such child or children pursuant to the order of a court of record providing for support of such child or children.

(3)(a) As soon as recovery is so complete that the present earning power of the worker, at any kind of work, is restored to that existing at the time of the occurrence of the injury, the payments shall cease. If and so long as the present earning power is only partially restored, the payments shall:

(i) For claims for injuries that occurred before May 7, 1993, continue in the proportion which the new earning power shall bear to the old; or

(ii) For claims for injuries occurring on or after May 7, 1993, equal eighty percent of the actual difference between the worker's present wages and earning power at the time of injury, but: (A) The total of these payments and the worker's present wages may not exceed one hundred fifty percent of the average monthly wage in the state as computed under RCW 51.08.018; (B) the payments may not exceed one hundred percent of the entitlement as computed under subsection (1) of this section; and (C) the payments may not be less than the worker would have received if (a)(i) of this subsection had been applicable to the worker's claim.

(b) No compensation shall be payable under this subsection (3) unless the loss of earning power shall exceed five percent.

(4)(a) Whenever the employer of injury requests that a worker who is entitled to temporary total disability under this chapter be certified by a physician as able to perform available work other than his or her usual work, the employer shall furnish to the physician, with a copy to the worker, a statement describing the work available with the employer of injury in terms that will enable the physician to relate the physical activities of the job to the worker's disability. The physician shall then determine whether the worker is physically able to perform the work described. The worker's temporary total disability payments shall continue until the worker is released by his or her physician for the work, and begins the work with the employer of injury. If the work thereafter comes to an end before the worker's recovery is sufficient in the judgment of his or her physician to permit him or her to return to his or her usual job, or to perform other available work offered by the employer of injury, the worker's temporary total disability payments shall be resumed. Should the available work described, once undertaken by the worker, impede his or her recovery to the extent that in the judgment of his or her physician he or she should not continue to work, the worker's temporary total disability payments shall be resumed when the worker ceases such work.

(b) Once the worker returns to work under the terms of this subsection (4), he or she shall not be assigned by the employer to work other than the available work described without the worker's written consent, or without prior review and approval by the worker's physician.

(c) If the worker returns to work under this subsection (4), any employee health and welfare benefits that the worker was receiving at the time of injury shall continue or be resumed at the level provided at the time of injury. Such benefits shall not be continued or resumed if to do so is inconsistent with the terms of the benefit program, or with the terms of the collective bargaining agreement currently in force.

(d) In the event of any dispute as to the worker's ability to perform the available work offered by the employer, the department shall make the final determination.

(5) No worker shall receive compensation for or during the day on which injury was received or the three days following the same, unless his or her disability shall continue for a period of fourteen consecutive calendar days from date of injury: PROVIDED, That attempts to return to work in the first fourteen days following the injury shall not serve to break the continuity of the period of disability if the disability continues fourteen days after the injury occurs.

(6) Should a worker suffer a temporary total disability and should his or her employer at the time of the injury continue to pay him or her the wages which he or she was earning at the time of such injury, such injured worker shall not receive any payment provided in subsection (1) of this section during the period his or her employer shall so pay such wages.

(7) In no event shall the monthly payments provided in this section:

(a) Exceed the applicable percentage of the average monthly wage in the state as computed under the provisions of RCW 51.08.018 as follows:

AFTER	PERCENTAGE
June 30, 1993	105%
June 30, 1994	110%
June 30, 1995	115%
June 30, 1996	120%

(b) For dates of injury or disease manifestation after July 1, 2008, be less than fifteen percent of the average monthly wage in the state as computed under RCW 51.08.018 plus an additional ten dollars per month if the worker is married and an additional ten dollars per month for each child of the worker up to a maximum of five children. However, if the monthly payment computed under this subsection (7)(b) is greater than one hundred percent of the wages of the worker as determined under RCW 51.08.178, the monthly payment due to the worker shall be equal to the greater of the monthly wages of the worker or the minimum benefit set forth in this section on June 30, 2008.

(8) If the supervisor of industrial insurance determines that the worker is voluntarily retired and is no longer attached to the work force, benefits shall not be paid under this section.

NEW SECTION. Sec. 4. This act takes effect July 1, 2008.

NEW SECTION. Sec. 5. If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2007, in the omnibus appropriations act, this act is null and void."

Correct the title.
and the same are herewith transmitted.

RICHARD NAFZIGER, Chief Clerk

MOTION

Senator Franklin moved that the Senate concur in the House amendment(s) to Engrossed Senate Bill No. 5675.

Senators Franklin and Clements spoke in favor of the motion.

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The President declared the question before the Senate to be the motion by Senator Franklin that the Senate concur in the House amendment(s) to Engrossed Senate Bill No. 5675.

The motion by Senator Franklin carried and the Senate concurred in the House amendment(s) to Engrossed Senate Bill No. 5675 by voice vote.

The President declared the question before the Senate to be the final passage of Engrossed Senate Bill No. 5675, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Senate Bill No. 5675, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 37; Nays, 10; Absent, 0; Excused, 2.

Voting yea: Senators Benton, Berkey, Brandland, Brown, Carrell, Clements, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hobbs, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, Murray, Oemig, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Shin, Spanel, Swecker, Tom and Weinstein - 37

Voting nay: Senators Delvin, Hewitt, Holmquist, Honeyford, McCaslin, Pflug, Schoesler, Sheldon, Stevens and Zarelli - 10

Excused: Senators Morton and Parlette - 2

ENGROSSED SENATE BILL NO. 5675, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

April 4, 2007

MR. PRESIDENT:

The House has passed SUBSTITUTE SENATE BILL NO. 5702 with the following amendment: 5702-S AMH CL H3288.1

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 50.44.040 and 1977 ex.s. c 292 s 17 are each amended to read as follows:

The term "employment" as used in RCW 50.44.010, 50.44.020, and 50.44.030 shall not include service performed:

(1) In the employ of (a) a church or convention or association of churches, or (b) an organization which is operated primarily for religious purposes and which is operated, supervised, controlled, or principally supported by a church or convention or association of churches; however, the employer shall notify its employees as required by section 2 of this act; or

(2) By a duly ordained, commissioned, or licensed minister of a church in the exercise of his ministry or by a member of a religious order in the exercise of duties required by such order; or

(3) ~~((Before January 1, 1978, in the employ of a nongovernmental educational institution, approved or accredited by the state board of education, which is not an "institution of higher education"; or~~

~~—(4))~~ In a facility conducted for the purpose of carrying out a program of (a) rehabilitation for individuals whose earning capacity is impaired by age or physical or mental deficiency or injury, or (b) providing remunerative work for individuals who because of their impaired physical or mental capacity cannot be readily absorbed in the competitive labor market, by an individual receiving such rehabilitation or remunerative work; or

~~((5))~~ (4) As part of an unemployment work-relief or work-training program assisted or financed in whole or in part by a federal agency or an agency of a state or political subdivision thereof, by an individual receiving such work-relief or work-training; or

~~((6))~~ (5) For a custodial or penal institution by an inmate of the custodial or penal institution; or

~~((7))~~ (6) In the employ of a hospital, if such service is performed by a patient of such hospital; or

~~((8))~~ (7) In the employ of a school, college, or university, if such service is performed (a) by a student who is enrolled and is regularly attending classes at such school, college, or university, or (b) by the spouse of such a student, if such spouse is advised, at the time such spouse commences to perform such service, that (i) the employment of such spouse to perform such service is provided under a program to provide financial assistance to such student by such school, college, or university, and (ii) such employment will not be covered by any program of unemployment insurance; or

~~((9))~~ (8) By an individual under the age of twenty-two who is enrolled at a nonprofit or public educational institution which normally maintains a regular faculty and curriculum and normally has a regularly organized body of students in attendance at the place where its educational activities are carried on as a student in a full time program, taken for credit at such institution, which combines academic instruction with work experience, if such service is an integral part of such program, and such institution has so certified to the employee, except that this subsection shall not apply to service performed in a program established for or on behalf of an employer or group of employers; or

~~((10) Before January 1, 1978, in the employ of the state or one of its instrumentalities or a political subdivision or one of its instrumentalities by an individual who is (a) occupying an elective office, or (b) who is compensated solely on a fee or per diem basis; or~~

~~—(11) Before January 1, 1978, in the employ of the legislature of the state of Washington by an individual who is compensated pursuant to an agreement which provides for a guaranteed rate of compensation for irregular hours worked; or~~

~~((12))~~ (9) In the employ of a nongovernmental preschool which is devoted exclusively to the area of child development training of preschool age children through an established curriculum of formal classroom or laboratory instruction which did not employ four or more individuals on each of some twenty days during the calendar year or the preceding calendar year, each day being in a different calendar week; or

~~((13) After December 31, 1977;)~~ (10) In the employ of the state or any of its instrumentalities or political subdivisions of this state in any of its instrumentalities by an individual in the exercise of duties:

(a) As an elected official;

(b) As a member of the national guard or air national guard; or

(c) In a policymaking position the performance of the duties of which ordinarily do not require more than eight hours per week.

NEW SECTION. Sec. 2. A new section is added to chapter 50.44 RCW to read as follows:

A church or convention or association of churches, or an organization which is operated primarily for religious purposes and which is operated, supervised, controlled, or principally supported by a church or convention or association of churches shall inform each individual performing services exempt from "employment" under RCW 50.44.040(1) that the individual may not be eligible to receive unemployment benefits based on such services. The employer shall provide a written notice of this exclusion to the individual at the time of hire. The employer shall display a poster giving notice of this exclusion in a conspicuous place. The employer's compliance with these notice requirements shall not affect an individual's eligibility for benefits. The employment security department shall make posters available to employers without charge."

Correct the title, and the same are herewith transmitted.

RICHARD NAFZIGER, Chief Clerk

MOTION

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Senator Benton moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5702.

Senator Benton spoke in favor of the motion.

MOTION

On motion of Senator Regala, Senator Prentice was excused.

The President declared the question before the Senate to be the motion by Senator Benton that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5702.

The motion by Senator Benton carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 5702 by voice vote.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5702, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5702, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 46; Nays, 1; Absent, 0; Excused, 2.

Voting yea: Senators Benton, Berkey, Brandland, Brown, Carrell, Clements, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, Murray, Oemig, Pflug, Poulsen, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Tom, Weinstein and Zarelli - 46

Voting nay: Senator Morton - 1

Excused: Senators Parlette and Prentice - 2

SUBSTITUTE SENATE BILL NO. 5702, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

April 3, 2007

MR. PRESIDENT:

The House has passed SUBSTITUTE SENATE BILL NO. 5718, with the following amendment: 5718-S AMH ENGR H3087.E

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 9.68A.001 and 1984 c 262 s 1 are each amended to read as follows:

The legislature finds that the prevention of sexual exploitation and abuse of children constitutes a government objective of surpassing importance. The care of children is a sacred trust and should not be abused by those who seek commercial gain or personal gratification based on the exploitation of children.

The legislature further finds that the protection of children from sexual exploitation can be accomplished without infringing on a constitutionally protected activity. The definition of "sexually explicit conduct" and other operative definitions demarcate a line between protected and prohibited conduct and should not inhibit legitimate scientific, medical, or educational activities.

The legislature further finds that children engaged in sexual conduct for financial compensation are frequently the victims of sexual abuse. Approximately eighty to ninety percent of children engaged in sexual activity for financial compensation have a history of sexual abuse victimization. It is the intent of the legislature to encourage these children to engage in prevention and intervention services and to hold those who pay

to engage in the sexual abuse of children accountable for the trauma they inflict on children.

Sec. 2. RCW 9.68A.100 and 1999 c 327 s 4 are each amended to read as follows:

(1) A person is guilty of ~~((patronizing a juvenile prostitute))~~ commercial sexual abuse of a minor if ~~((that person engages or agrees or offers))~~:

(a) He or she pays a fee to a minor or a third person as compensation for a minor having engaged in sexual conduct with him or her;

(b) He or she pays or agrees to pay a fee to a minor or a third person pursuant to an understanding that in return therefore such minor will engage in sexual conduct with him or her; or

(c) He or she solicits, offers, or requests to engage in sexual conduct with a minor in return for a fee ~~(; and is guilty of)~~.

(2) Commercial sexual abuse of a minor is a class C felony punishable under chapter 9A.20 RCW.

(3) In addition to any other penalty provided under chapter 9A.20 RCW, a person guilty of ~~((patronizing a juvenile prostitute))~~ commercial sexual abuse of a minor is subject to the provisions under RCW 9A.88.130 and 9A.88.140.

(4) For purposes of this section, "sexual conduct" means sexual intercourse or sexual contact, both as defined in chapter 9A.44 RCW.

Sec. 3. RCW 9.68A.110 and 1992 c 178 s 1 are each amended to read as follows:

(1) In a prosecution under RCW 9.68A.040, it is not a defense that the defendant was involved in activities of law enforcement and prosecution agencies in the investigation and prosecution of criminal offenses. Law enforcement and prosecution agencies shall not employ minors to aid in the investigation of a violation of RCW 9.68A.090 or 9.68A.100. This chapter does not apply to lawful conduct between spouses.

(2) In a prosecution under RCW 9.68A.050, 9.68A.060, 9.68A.070, or 9.68A.080, it is not a defense that the defendant did not know the age of the child depicted in the visual or printed matter: PROVIDED, That it is a defense, which the defendant must prove by a preponderance of the evidence, that at the time of the offense the defendant was not in possession of any facts on the basis of which he or she should reasonably have known that the person depicted was a minor.

(3) In a prosecution under RCW 9.68A.040 ~~((or))~~, 9.68A.090, section 4 of this act, or section 5 of this act, it is not a defense that the defendant did not know the alleged victim's age: PROVIDED, That it is a defense, which the defendant must prove by a preponderance of the evidence, that at the time of the offense, the defendant made a reasonable bona fide attempt to ascertain the true age of the minor by requiring production of a driver's license, marriage license, birth certificate, or other governmental or educational identification card or paper and did not rely solely on the oral allegations or apparent age of the minor.

(4) In a prosecution under RCW 9.68A.050, 9.68A.060, or 9.68A.070, it shall be an affirmative defense that the defendant was a law enforcement officer in the process of conducting an official investigation of a sex-related crime against a minor, or that the defendant was providing individual case treatment as a recognized medical facility or as a psychiatrist or psychologist licensed under Title 18 RCW.

(5) In a prosecution under RCW 9.68A.050, 9.68A.060, or 9.68A.070, the state is not required to establish the identity of the alleged victim.

NEW SECTION. Sec. 4. A new section is added to chapter 9.68A RCW to read as follows:

(1) A person is guilty of promoting commercial sexual abuse of a minor if he or she knowingly advances commercial sexual abuse of a minor or profits from a minor engaged in sexual conduct.

(2) Promoting commercial sexual abuse of a minor is a class B felony.

(3) For the purposes of this section:

(a) A person "advances commercial sexual abuse of a minor" if, acting other than as a minor receiving compensation for personally rendered sexual conduct or as a person engaged in commercial sexual abuse of a minor, he or she causes or aids a

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person to commit or engage in commercial sexual abuse of a minor, procures or solicits customers for commercial sexual abuse of a minor, provides persons or premises for the purposes of engaging in commercial sexual abuse of a minor, operates or assists in the operation of a house or enterprise for the purposes of engaging in commercial sexual abuse of a minor, or engages in any other conduct designed to institute, aid, cause, assist, or facilitate an act or enterprise of commercial sexual abuse of a minor.

(b) A person "profits from commercial sexual abuse of a minor" if, acting other than as a minor receiving compensation for personally rendered sexual conduct, he or she accepts or receives money or other property pursuant to an agreement or understanding with any person whereby he or she participates or will participate in the proceeds of commercial sexual abuse of a minor.

(4) For purposes of this section, "sexual conduct" means sexual intercourse or sexual contact, both as defined in chapter 9A.44 RCW.

NEW SECTION. Sec. 5. A new section is added to chapter 9.68A RCW to read as follows:

(1) A person commits the offense of promoting travel for commercial sexual abuse of a minor if he or she knowingly sells or offers to sell travel services that include or facilitate travel for the purpose of engaging in what would be commercial sexual abuse of a minor or promoting commercial sexual abuse of a minor, if occurring in this state.

(2) Promoting travel for commercial sexual abuse of a minor is a class C felony.

(3) For purposes of this section, "travel services" has the same meaning as defined in RCW 19.138.021.

Sec. 6. RCW 19.138.340 and 2006 c 250 s 3 are each amended to read as follows:

(1) No seller of travel shall engage in any of the following:

(a) Promoting travel for prostitution or promoting travel for commercial sexual abuse of a minor;

(b) Selling, advertising, or otherwise offering to sell travel services or facilitate travel:

(i) For the purposes of engaging in a commercial sex act;

(ii) That consists of tourism packages or activities using and offering sexual acts as an enticement for tourism; or

(iii) That provides, purports to provide access to, or facilitates the availability of sex escorts or sexual services.

(2) For the purposes of this section:

(a) "Commercial sex act" means any sexual contact, as defined in chapter 9A.44 RCW, for which anything of value is given to or received by any person.

(b) "Sexual act" means any sexual contact as defined in chapter 9A.44 RCW.

NEW SECTION. Sec. 7. A new section is added to chapter 9.68A RCW to read as follows:

(1) A person is guilty of permitting commercial sexual abuse of a minor if, having possession or control of premises which he or she knows are being used for the purpose of commercial sexual abuse of a minor, he or she fails without lawful excuse to make reasonable effort to halt or abate such use and to make a reasonable effort to notify law enforcement of such use.

(2) Permitting commercial sexual abuse of a minor is a gross misdemeanor.

Sec. 8. RCW 9A.88.140 and 1999 c 327 s 3 are each amended to read as follows:

(1) Upon an arrest for a suspected violation of patronizing a prostitute or ~~((patronizing a juvenile prostitute))~~ commercial sexual abuse of a minor, the arresting law enforcement officer may impound the person's vehicle if (a) the motor vehicle was used in the commission of the crime; (b) the person arrested is the owner of the vehicle; and (c) the person arrested has previously been convicted of patronizing a prostitute, under RCW 9A.88.110, or ~~((patronizing a juvenile prostitute))~~ commercial sexual abuse of a minor, under RCW 9.68A.100.

(2) Impoundments performed under this section shall be in accordance with chapter 46.55 RCW.

Sec. 9. RCW 9.94A.533 and 2006 c 339 s 301 and 2006 c 123 s 1 are each reenacted and amended to read as follows:

(1) The provisions of this section apply to the standard sentence ranges determined by RCW 9.94A.510 or 9.94A.517.

(2) For persons convicted of the anticipatory offenses of criminal attempt, solicitation, or conspiracy under chapter 9A.28 RCW, the standard sentence range is determined by locating the sentencing grid sentence range defined by the appropriate offender score and the seriousness level of the completed crime, and multiplying the range by seventy-five percent.

(3) The following additional times shall be added to the standard sentence range for felony crimes committed after July 23, 1995, if the offender or an accomplice was armed with a firearm as defined in RCW 9.41.010 and the offender is being sentenced for one of the crimes listed in this subsection as eligible for any firearm enhancements based on the classification of the completed felony crime. If the offender is being sentenced for more than one offense, the firearm enhancement or enhancements must be added to the total period of confinement for all offenses, regardless of which underlying offense is subject to a firearm enhancement. If the offender or an accomplice was armed with a firearm as defined in RCW 9.41.010 and the offender is being sentenced for an anticipatory offense under chapter 9A.28 RCW to commit one of the crimes listed in this subsection as eligible for any firearm enhancements, the following additional times shall be added to the standard sentence range determined under subsection (2) of this section based on the felony crime of conviction as classified under RCW 9A.28.020:

(a) Five years for any felony defined under any law as a class A felony or with a statutory maximum sentence of at least twenty years, or both, and not covered under (f) of this subsection;

(b) Three years for any felony defined under any law as a class B felony or with a statutory maximum sentence of ten years, or both, and not covered under (f) of this subsection;

(c) Eighteen months for any felony defined under any law as a class C felony or with a statutory maximum sentence of five years, or both, and not covered under (f) of this subsection;

(d) If the offender is being sentenced for any firearm enhancements under (a), (b), and/or (c) of this subsection and the offender has previously been sentenced for any deadly weapon enhancements after July 23, 1995, under (a), (b), and/or (c) of this subsection or subsection (4)(a), (b), and/or (c) of this section, or both, all firearm enhancements under this subsection shall be twice the amount of the enhancement listed;

(e) Notwithstanding any other provision of law, all firearm enhancements under this section are mandatory, shall be served in total confinement, and shall run consecutively to all other sentencing provisions, including other firearm or deadly weapon enhancements, for all offenses sentenced under this chapter. However, whether or not a mandatory minimum term has expired, an offender serving a sentence under this subsection may be granted an extraordinary medical placement when authorized under RCW 9.94A.728(4);

(f) The firearm enhancements in this section shall apply to all felony crimes except the following: Possession of a machine gun, possession of a stolen firearm, drive-by shooting, theft of a firearm, unlawful possession of a firearm in the first and second degree, and use of a machine gun in a felony;

(g) If the standard sentence range under this section exceeds the statutory maximum sentence for the offense, the statutory maximum sentence shall be the presumptive sentence unless the offender is a persistent offender. If the addition of a firearm enhancement increases the sentence so that it would exceed the statutory maximum for the offense, the portion of the sentence representing the enhancement may not be reduced.

(4) The following additional times shall be added to the standard sentence range for felony crimes committed after July 23, 1995, if the offender or an accomplice was armed with a deadly weapon other than a firearm as defined in RCW 9.41.010 and the offender is being sentenced for one of the crimes listed in this subsection as eligible for any deadly weapon enhancements based on the classification of the completed felony crime. If the offender is being sentenced for more than one offense, the deadly weapon enhancement or enhancements must be added to the total period of confinement for all offenses,

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regardless of which underlying offense is subject to a deadly weapon enhancement. If the offender or an accomplice was armed with a deadly weapon other than a firearm as defined in RCW 9A.1.010 and the offender is being sentenced for an anticipatory offense under chapter 9A.28 RCW to commit one of the crimes listed in this subsection as eligible for any deadly weapon enhancements, the following additional times shall be added to the standard sentence range determined under subsection (2) of this section based on the felony crime of conviction as classified under RCW 9A.28.020:

(a) Two years for any felony defined under any law as a class A felony or with a statutory maximum sentence of at least twenty years, or both, and not covered under (f) of this subsection;

(b) One year for any felony defined under any law as a class B felony or with a statutory maximum sentence of ten years, or both, and not covered under (f) of this subsection;

(c) Six months for any felony defined under any law as a class C felony or with a statutory maximum sentence of five years, or both, and not covered under (f) of this subsection;

(d) If the offender is being sentenced under (a), (b), and/or (c) of this subsection for any deadly weapon enhancements and the offender has previously been sentenced for any deadly weapon enhancements after July 23, 1995, under (a), (b), and/or (c) of this subsection or subsection (3)(a), (b), and/or (c) of this section, or both, all deadly weapon enhancements under this subsection shall be twice the amount of the enhancement listed;

(e) Notwithstanding any other provision of law, all deadly weapon enhancements under this section are mandatory, shall be served in total confinement, and shall run consecutively to all other sentencing provisions, including other firearm or deadly weapon enhancements, for all offenses sentenced under this chapter. However, whether or not a mandatory minimum term has expired, an offender serving a sentence under this subsection may be granted an extraordinary medical placement when authorized under RCW 9.94A.728(4);

(f) The deadly weapon enhancements in this section shall apply to all felony crimes except the following: Possession of a machine gun, possessing a stolen firearm, drive-by shooting, theft of a firearm, unlawful possession of a firearm in the first and second degree, and use of a machine gun in a felony;

(g) If the standard sentence range under this section exceeds the statutory maximum sentence for the offense, the statutory maximum sentence shall be the presumptive sentence unless the offender is a persistent offender. If the addition of a deadly weapon enhancement increases the sentence so that it would exceed the statutory maximum for the offense, the portion of the sentence representing the enhancement may not be reduced.

(5) The following additional times shall be added to the standard sentence range if the offender or an accomplice committed the offense while in a county jail or state correctional facility and the offender is being sentenced for one of the crimes listed in this subsection. If the offender or an accomplice committed one of the crimes listed in this subsection while in a county jail or state correctional facility, and the offender is being sentenced for an anticipatory offense under chapter 9A.28 RCW to commit one of the crimes listed in this subsection, the following additional times shall be added to the standard sentence range determined under subsection (2) of this section:

(a) Eighteen months for offenses committed under RCW 69.50.401(2) (a) or (b) or 69.50.410;

(b) Fifteen months for offenses committed under RCW 69.50.401(2) (c), (d), or (e);

(c) Twelve months for offenses committed under RCW 69.50.4013.

For the purposes of this subsection, all of the real property of a state correctional facility or county jail shall be deemed to be part of that facility or county jail.

(6) An additional twenty-four months shall be added to the standard sentence range for any ranked offense involving a violation of chapter 69.50 RCW if the offense was also a violation of RCW 69.50.435 or 9.94A.605. All enhancements under this subsection shall run consecutively to all other sentencing provisions, for all offenses sentenced under this chapter.

(7) An additional two years shall be added to the standard sentence range for vehicular homicide committed while under the influence of intoxicating liquor or any drug as defined by RCW 46.61.502 for each prior offense as defined in RCW 46.61.5055.

(8)(a) The following additional times shall be added to the standard sentence range for felony crimes committed on or after July 1, 2006, if the offense was committed with sexual motivation, as that term is defined in RCW 9.94A.030. If the offender is being sentenced for more than one offense, the sexual motivation enhancement must be added to the total period of total confinement for all offenses, regardless of which underlying offense is subject to a sexual motivation enhancement. If the offender committed the offense with sexual motivation and the offender is being sentenced for an anticipatory offense under chapter 9A.28 RCW, the following additional times shall be added to the standard sentence range determined under subsection (2) of this section based on the felony crime of conviction as classified under RCW 9A.28.020:

(i) Two years for any felony defined under the law as a class A felony or with a statutory maximum sentence of at least twenty years, or both;

(ii) Eighteen months for any felony defined under any law as a class B felony or with a statutory maximum sentence of ten years, or both;

(iii) One year for any felony defined under any law as a class C felony or with a statutory maximum sentence of five years, or both;

(iv) If the offender is being sentenced for any sexual motivation enhancements under (i), (ii), and/or (iii) of this subsection and the offender has previously been sentenced for any sexual motivation enhancements on or after July 1, 2006, under (i), (ii), and/or (iii) of this subsection, all sexual motivation enhancements under this subsection shall be twice the amount of the enhancement listed;

(b) Notwithstanding any other provision of law, all sexual motivation enhancements under this subsection are mandatory, shall be served in total confinement, and shall run consecutively to all other sentencing provisions, including other sexual motivation enhancements, for all offenses sentenced under this chapter. However, whether or not a mandatory minimum term has expired, an offender serving a sentence under this subsection may be granted an extraordinary medical placement when authorized under RCW 9.94A.728(4);

(c) The sexual motivation enhancements in this subsection apply to all felony crimes;

(d) If the standard sentence range under this subsection exceeds the statutory maximum sentence for the offense, the statutory maximum sentence shall be the presumptive sentence unless the offender is a persistent offender. If the addition of a sexual motivation enhancement increases the sentence so that it would exceed the statutory maximum for the offense, the portion of the sentence representing the enhancement may not be reduced;

(e) The portion of the total confinement sentence which the offender must serve under this subsection shall be calculated before any earned early release time is credited to the offender;

(f) Nothing in this subsection prevents a sentencing court from imposing a sentence outside the standard sentence range pursuant to RCW 9.94A.535.

(9) An additional one-year enhancement shall be added to the standard sentence range for the felony crimes of RCW 9A.44.073, 9A.44.076, 9A.44.079, 9A.44.083, 9A.44.086, or 9A.44.089 committed on or after the effective date of this act, if the offender engaged, agreed, or offered to engage the victim in the sexual conduct in return for a fee. If the offender is being sentenced for more than one offense, the one-year enhancement must be added to the total period of total confinement for all offenses, regardless of which underlying offense is subject to the enhancement. If the offender is being sentenced for an anticipatory offense for the felony crimes of RCW 9A.44.073, 9A.44.076, 9A.44.079, 9A.44.083, 9A.44.086, or 9A.44.089, and the offender attempted, solicited another, or conspired to engage, agree, or offer to engage the victim in sexual conduct in return for a fee, an additional one-year enhancement shall be

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added to the standard sentence range determined under subsection (2) of this section. For purposes of this subsection, "sexual conduct" means sexual intercourse or sexual contact, both as defined in chapter 9A.44 RCW.

NEW SECTION. Sec. 10. A new section is added to chapter 9.94A RCW to read as follows:

(1) In a prosecution for a violation of RCW 9A.44.073, 9A.44.076, 9A.44.079, 9A.44.083, 9A.44.086, or 9A.44.089, or an anticipatory offense for a violation of RCW 9A.44.073, 9A.44.076, 9A.44.079, 9A.44.083, 9A.44.086, or 9A.44.089, committed on or after the effective date of this act, the prosecuting attorney may file a special allegation that the defendant engaged, agreed, offered, attempted, solicited another, or conspired to engage the victim in the sexual conduct in return for a fee, when sufficient admissible evidence exists, which, when considered with the most plausible, reasonably foreseeable defense that could be raised under the evidence, would justify a finding by a reasonable and objective fact-finder that the defendant engaged, agreed, offered, attempted, solicited another, or conspired to engage the victim in the sexual conduct in return for a fee.

(2) Once a special allegation has been made under this section, the state has the burden to prove beyond a reasonable doubt that the defendant engaged, agreed, offered, attempted, solicited another, or conspired to engage the victim in the sexual conduct in return for a fee. If a jury is had, the jury shall, if it finds the defendant guilty, also find a special verdict as to whether the defendant engaged, agreed, offered, attempted, solicited another, or conspired to engage the victim in the sexual conduct in exchange for a fee. If no jury is had, the court shall make a finding of fact as to whether the defendant engaged, agreed, offered, attempted, solicited another, or conspired to engage the victim in the sexual conduct in exchange for a fee.

(3) For purposes of this section, "sexual conduct" means sexual intercourse or sexual contact as defined in chapter 9A.44 RCW.

Sec. 11. RCW 9.68A.105 and 1995 c 353 s 12 are each amended to read as follows:

(1)(a) In addition to penalties set forth in RCW 9.68A.100, a person who is either convicted or given a deferred sentence or a deferred prosecution or who has entered into a statutory or nonstatutory diversion agreement as a result of an arrest for violating RCW 9.68A.100 or a comparable county or municipal ordinance shall be assessed a ~~(two)~~ five hundred fifty dollar fee.

(b) The court may not suspend payment of all or part of the fee unless it finds that the person does not have the ability to pay.

(c) When a minor has been adjudicated a juvenile offender or has entered into a statutory or nonstatutory diversion agreement for an offense which, if committed by an adult, would constitute a violation of RCW 9.68A.100 or a comparable county or municipal ordinance, the court shall assess the fee under (a) of this subsection. The court may not suspend payment of all or part of the fee unless it finds that the minor does not have the ability to pay the fee.

(2) The fee assessed under subsection (1) of this section shall be collected by the clerk of the court and distributed each month to the state treasurer for deposit in the prostitution prevention and intervention account under RCW 43.63A.740 for the purpose of funding prostitution prevention and intervention activities.

(3) For the purposes of this section:

(a) "Statutory or nonstatutory diversion agreement" means an agreement under RCW 13.40.080 or any written agreement between a person accused of an offense listed in subsection (1) of this section and a court, county or city prosecutor, or designee thereof, whereby the person agrees to fulfill certain conditions in lieu of prosecution.

(b) "Deferred sentence" means a sentence that will not be carried out if the defendant meets certain requirements, such as complying with the conditions of probation.

Sec. 12. RCW 9A.88.120 and 1995 c 353 s 13 are each amended to read as follows:

(1)(a) In addition to penalties set forth in RCW 9A.88.010, 9A.88.030, and 9A.88.090, a person who is either convicted or given a deferred sentence or a deferred prosecution or who has entered into a statutory or nonstatutory diversion agreement as a result of an arrest for violating RCW 9A.88.010, 9A.88.030, 9A.88.090, or comparable county or municipal ordinances shall be assessed a fifty dollar fee.

(b) In addition to penalties set forth in RCW 9A.88.110, a person who is either convicted or given a deferred sentence or a deferred prosecution or who has entered into a statutory or nonstatutory diversion agreement as a result of an arrest for violating RCW 9A.88.110 or a comparable county or municipal ordinance shall be assessed a one hundred fifty dollar fee.

(c) In addition to penalties set forth in RCW 9A.88.070 and 9A.88.080, a person who is either convicted or given a deferred sentence or a deferred prosecution or who has entered into a statutory or nonstatutory diversion agreement as a result of an arrest for violating RCW 9A.88.070, 9A.88.080, or comparable county or municipal ordinances shall be assessed a three hundred dollar fee.

(2) The court may not suspend payment of all or part of the fee unless it finds that the person does not have the ability to pay.

(3) When a minor has been adjudicated a juvenile offender or has entered into a statutory or nonstatutory diversion agreement for an offense which, if committed by an adult, would constitute a violation under this chapter or comparable county or municipal ordinances, the court shall assess the fee as specified under subsection (1) of this section. The court may not suspend payment of all or part of the fee unless it finds that the minor does not have the ability to pay the fee.

(4) Any fee assessed under this section shall be collected by the clerk of the court and distributed each month to the state treasurer for deposit in the prostitution prevention and intervention account under RCW 43.63A.740 for the purpose of funding prostitution prevention and intervention activities.

(5) For the purposes of this section:

(a) "Statutory or nonstatutory diversion agreement" means an agreement under RCW 13.40.080 or any written agreement between a person accused of an offense listed in subsection (1) of this section and a court, county, or city prosecutor, or designee thereof, whereby the person agrees to fulfill certain conditions in lieu of prosecution.

(b) "Deferred sentence" means a sentence that will not be carried out if the defendant meets certain requirements, such as complying with the conditions of probation.

Sec. 13. RCW 9A.88.070 and 1975 1st ex.s. c 260 s 9A.88.070 are each amended to read as follows:

(1) A person is guilty of promoting prostitution in the first degree if he or she knowingly:

(a) advances prostitution by compelling a person by threat or force to engage in prostitution or profits from prostitution which results from such threat or force;

(b) ~~Advances or profits from prostitution of a person less than eighteen years old).~~

(2) Promoting prostitution in the first degree is a class B felony.

Sec. 14. RCW 9.94A.515 and 2006 c 277 s 6, 2006 c 228 s 9, 2006 c 191 s 2, 2006 c 139 s 2, 2006 c 128 s 3, and 2006 c 73 s 12 are each reenacted and amended to read as follows:

TABLE 2

CRIMES INCLUDED WITHIN EACH SERIOUSNESS LEVEL	
XVI	Aggravated Murder 1 (RCW 10.95.020)
XV	Homicide by abuse (RCW 9A.32.055)
	Malicious explosion 1 (RCW 70.74.280(1))
	Murder 1 (RCW 9A.32.030)

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| <p>XIV Murder 2 (RCW 9A.32.050)
Trafficking 1 (RCW 9A.40.100(1))</p> <p>XIII Malicious explosion 2 (RCW 70.74.280(2))
Malicious placement of an explosive 1 (RCW 70.74.270(1))</p> <p>XII Assault 1 (RCW 9A.36.011)
Assault of a Child 1 (RCW 9A.36.120)
Malicious placement of an imitation device 1 (RCW 70.74.272(1)(a))
Rape 1 (RCW 9A.44.040)
Rape of a Child 1 (RCW 9A.44.073)
Trafficking 2 (RCW 9A.40.100(2))</p> <p>XI Manslaughter 1 (RCW 9A.32.060)
Rape 2 (RCW 9A.44.050)
Rape of a Child 2 (RCW 9A.44.076)</p> <p>X Child Molestation 1 (RCW 9A.44.083)
Indecent Liberties (with forcible compulsion) (RCW 9A.44.100(1)(a))
Kidnapping 1 (RCW 9A.40.020)
Leading Organized Crime (RCW 9A.82.060(1)(a))
Malicious explosion 3 (RCW 70.74.280(3))
Sexually Violent Predator Escape (RCW 9A.76.115)</p> <p>IX Abandonment of Dependent Person 1 (RCW 9A.42.060)
Assault of a Child 2 (RCW 9A.36.130)
Criminal Mistreatment 1 (RCW 9A.42.020)
Explosive devices prohibited (RCW 70.74.180)
Hit and Run--Death (RCW 46.52.020(4)(a))
Homicide by Watercraft, by being under the influence of intoxicating liquor or any drug (RCW 79A.60.050)
Inciting Criminal Profiteering (RCW 9A.82.060(1)(b))
Malicious placement of an explosive 2 (RCW 70.74.270(2))
Robbery 1 (RCW 9A.56.200)
Sexual Exploitation (RCW 9.68A.040)
Vehicular Homicide, by being under the influence of intoxicating liquor or any drug (RCW 46.61.520)</p> <p>VIII Arson 1 (RCW 9A.48.020)</p> | <p>Homicide by Watercraft, by the operation of any vessel in a reckless manner (RCW 79A.60.050)</p> <p>Manslaughter 2 (RCW 9A.32.070)</p> <p><u>Promoting Commercial Sexual Abuse of a Minor (section 4 of this act)</u></p> <p>Promoting Prostitution 1 (RCW 9A.88.070)</p> <p>Theft of Ammonia (RCW 69.55.010)</p> <p>Vehicular Homicide, by the operation of any vehicle in a reckless manner (RCW 46.61.520)</p> <p>VII Burglary 1 (RCW 9A.52.020)
Child Molestation 2 (RCW 9A.44.086)
Civil Disorder Training (RCW 9A.48.120)
Dealing in depictions of minor engaged in sexually explicit conduct (RCW 9.68A.050)
Drive-by Shooting (RCW 9A.36.045)
Homicide by Watercraft, by disregard for the safety of others (RCW 79A.60.050)
Indecent Liberties (without forcible compulsion) (RCW 9A.44.100(1)(b) and (c))
Introducing Contraband 1 (RCW 9A.76.140)
Malicious placement of an explosive 3 (RCW 70.74.270(3))
Negligently Causing Death By Use of a Signal Preemption Device (RCW 46.37.675)
Sending, bringing into state depictions of minor engaged in sexually explicit conduct (RCW 9.68A.060)
Unlawful Possession of a Firearm in the first degree (RCW 9.41.040(1))
Use of a Machine Gun in Commission of a Felony (RCW 9.41.225)
Vehicular Homicide, by disregard for the safety of others (RCW 46.61.520)</p> <p>VI Bail Jumping with Murder 1 (RCW 9A.76.170(3)(a))
Bribery (RCW 9A.68.010)
Incest 1 (RCW 9A.64.020(1))
Intimidating a Judge (RCW 9A.72.160)
Intimidating a Juror/Witness (RCW 9A.72.110, 9A.72.130)
Malicious placement of an imitation device 2 (RCW 70.74.272(1)(b))</p> |
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- Possession of Depictions of a Minor Engaged in Sexually Explicit Conduct (RCW 9.68A.070)
- Rape of a Child 3 (RCW 9A.44.079)
- Theft of a Firearm (RCW 9A.56.300)
- Unlawful Storage of Ammonia (RCW 69.55.020)
- V Abandonment of Dependent Person 2 (RCW 9A.42.070)
- Advancing money or property for extortionate extension of credit (RCW 9A.82.030)
- Bail Jumping with class A Felony (RCW 9A.76.170(3)(b))
- Child Molestation 3 (RCW 9A.44.089)
- Criminal Mistreatment 2 (RCW 9A.42.030)
- Custodial Sexual Misconduct 1 (RCW 9A.44.160)
- Domestic Violence Court Order Violation (RCW 10.99.040, 10.99.050, 26.09.300, 26.10.220, 26.26.138, 26.50.110, 26.52.070, or 74.34.145)
- Driving While Under the Influence (RCW 46.61.502(6))
- Extortion 1 (RCW 9A.56.120)
- Extortionate Extension of Credit (RCW 9A.82.020)
- Extortionate Means to Collect Extensions of Credit (RCW 9A.82.040)
- Incest 2 (RCW 9A.64.020(2))
- Kidnapping 2 (RCW 9A.40.030)
- Perjury 1 (RCW 9A.72.020)
- Persistent prison misbehavior (RCW 9.94.070)
- Physical Control of a Vehicle While Under the Influence (RCW 46.61.504(6))
- Possession of a Stolen Firearm (RCW 9A.56.310)
- Rape 3 (RCW 9A.44.060)
- Rendering Criminal Assistance 1 (RCW 9A.76.070)
- Sexual Misconduct with a Minor 1 (RCW 9A.44.093)
- Sexually Violating Human Remains (RCW 9A.44.105)
- Stalking (RCW 9A.46.110)
- Taking Motor Vehicle Without Permission 1 (RCW 9A.56.070)
- IV Arson 2 (RCW 9A.48.030)
- Assault 2 (RCW 9A.36.021)
- Assault 3 (of a Peace Officer with a Projectile Stun Gun) (RCW 9A.36.031(1)(h))
- Assault by Watercraft (RCW 79A.60.060)
- Bribing a Witness/Bribe Received by Witness (RCW 9A.72.090, 9A.72.100)
- Cheating 1 (RCW 9.46.1961)
- Commercial Bribery (RCW 9A.68.060)
- Counterfeiting (RCW 9.16.035(4))
- Endangerment with a Controlled Substance (RCW 9A.42.100)
- Escape 1 (RCW 9A.76.110)
- Hit and Run--Injury (RCW 46.52.020(4)(b))
- Hit and Run with Vessel--Injury Accident (RCW 79A.60.200(3))
- Identity Theft 1 (RCW 9.35.020(2))
- Indecent Exposure to Person Under Age Fourteen (subsequent sex offense) (RCW 9A.88.010)
- Influencing Outcome of Sporting Event (RCW 9A.82.070)
- Malicious Harassment (RCW 9A.36.080)
- Residential Burglary (RCW 9A.52.025)
- Robbery 2 (RCW 9A.56.210)
- Theft of Livestock 1 (RCW 9A.56.080)
- Threats to Bomb (RCW 9.61.160)
- Trafficking in Stolen Property 1 (RCW 9A.82.050)
- Unlawful factoring of a credit card or payment card transaction (RCW 9A.56.290(4)(b))
- Unlawful transaction of health coverage as a health care service contractor (RCW 48.44.016(3))
- Unlawful transaction of health coverage as a health maintenance organization (RCW 48.46.033(3))
- Unlawful transaction of insurance business (RCW 48.15.023(3))
- Unlicensed practice as an insurance professional (RCW 48.17.063(3))
- Use of Proceeds of Criminal Profiteering (RCW 9A.82.080 (1) and (2))

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- Vehicular Assault, by being under the influence of intoxicating liquor or any drug, or by the operation or driving of a vehicle in a reckless manner (RCW 46.61.522)
- Willful Failure to Return from Furlough (RCW 72.66.060)
- III Animal Cruelty 1 (Sexual Conduct or Contact) (RCW 16.52.205(3))
- Assault 3 (Except Assault 3 of a Peace Officer With a Projectile Stun Gun) (RCW 9A.36.031 except subsection (1)(h))
- Assault of a Child 3 (RCW 9A.36.140)
- Bail Jumping with class B or C Felony (RCW 9A.76.170(3)(c))
- Burglary 2 (RCW 9A.52.030)
- Commercial Sexual Abuse of a Minor (RCW 9.68A.100)
- Communication with a Minor for Immoral Purposes (RCW 9.68A.090)
- Criminal Gang Intimidation (RCW 9A.46.120)
- Custodial Assault (RCW 9A.36.100)
- Cyberstalking (subsequent conviction or threat of death) (RCW 9.61.260(3))
- Escape 2 (RCW 9A.76.120)
- Extortion 2 (RCW 9A.56.130)
- Harassment (RCW 9A.46.020)
- Intimidating a Public Servant (RCW 9A.76.180)
- Introducing Contraband 2 (RCW 9A.76.150)
- Malicious Injury to Railroad Property (RCW 81.60.070)
- Negligently Causing Substantial Bodily Harm By Use of a Signal Preemption Device (RCW 46.37.674)
- Organized Retail Theft 1 (RCW 9A.56.350(2))
- ~~((Patronizing a Juvenile Prostitute (RCW 9.68A.100)))~~
- Perjury 2 (RCW 9A.72.030)
- Possession of Incendiary Device (RCW 9.40.120)
- Possession of Machine Gun or Short-Barreled Shotgun or Rifle (RCW 9.41.190)
- Promoting Prostitution 2 (RCW 9A.88.080)
- ~~((Retail)) Retail Theft with Extenuating Circumstances 1 (RCW 9A.56.360(2))~~
- Securities Act violation (RCW 21.20.400)
- Tampering with a Witness (RCW 9A.72.120)
- Telephone Harassment (subsequent conviction or threat of death) (RCW 9.61.230(2))
- Theft of Livestock 2 (RCW 9A.56.083)
- Theft with the Intent to Resell 1 (RCW 9A.56.340(2))
- Trafficking in Stolen Property 2 (RCW 9A.82.055)
- Unlawful Imprisonment (RCW 9A.40.040)
- Unlawful possession of firearm in the second degree (RCW 9.41.040(2))
- Vehicular Assault, by the operation or driving of a vehicle with disregard for the safety of others (RCW 46.61.522)
- Willful Failure to Return from Work Release (RCW 72.65.070)
- II Computer Trespass 1 (RCW 9A.52.110)
- Counterfeiting (RCW 9.16.035(3))
- Escape from Community Custody (RCW 72.09.310)
- Failure to Register as a Sex Offender (second or subsequent offense) (RCW 9A.44.130(10)(a))
- Health Care False Claims (RCW 48.80.030)
- Identity Theft 2 (RCW 9.35.020(3))
- Improperly Obtaining Financial Information (RCW 9.35.010)
- Malicious Mischief 1 (RCW 9A.48.070)
- Organized Retail Theft 2 (RCW 9A.56.350(3))
- Possession of Stolen Property 1 (RCW 9A.56.150)
- ~~((Retail)) Retail Theft with Extenuating Circumstances 2 (RCW 9A.56.360(3))~~
- Theft 1 (RCW 9A.56.030)
- Theft of Rental, Leased, or Lease-purchased Property (valued at one thousand five hundred dollars or more) (RCW 9A.56.096(5)(a))
- Theft with the Intent to Resell 2 (RCW 9A.56.340(3))

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- Trafficking in Insurance Claims (RCW 48.30A.015)
- Unlawful factoring of a credit card or payment card transaction (RCW 9A.56.290(4)(a))
- Unlawful Practice of Law (RCW 2.48.180)
- Unlicensed Practice of a Profession or Business (RCW 18.130.190(7))
- Voyeurism (RCW 9A.44.115)
- I Attempting to Elude a Pursuing Police Vehicle (RCW 46.61.024)
- False Verification for Welfare (RCW 74.08.055)
- Forgery (RCW 9A.60.020)
- Fraudulent Creation or Revocation of a Mental Health Advance Directive (RCW 9A.60.060)
- Malicious Mischief 2 (RCW 9A.48.080)
- Mineral Trespass (RCW 78.44.330)
- Possession of Stolen Property 2 (RCW 9A.56.160)
- Reckless Burning 1 (RCW 9A.48.040)
- Taking Motor Vehicle Without Permission 2 (RCW 9A.56.075)
- Theft 2 (RCW 9A.56.040)
- Theft of Rental, Leased, or Lease-purchased Property (valued at two hundred fifty dollars or more but less than one thousand five hundred dollars) (RCW 9A.56.096(5)(b))
- Transaction of insurance business beyond the scope of licensure (RCW 48.17.063(4))
- Unlawful Issuance of Checks or Drafts (RCW 9A.56.060)
- Unlawful Possession of Fictitious Identification (RCW 9A.56.320)
- Unlawful Possession of Instruments of Financial Fraud (RCW 9A.56.320)
- Unlawful Possession of Payment Instruments (RCW 9A.56.320)
- Unlawful Possession of a Personal Identification Device (RCW 9A.56.320)
- Unlawful Production of Payment Instruments (RCW 9A.56.320)
- Unlawful Trafficking in Food Stamps (RCW 9.91.142)
- Unlawful Use of Food Stamps (RCW 9.91.144)
- Vehicle Prowl 1 (RCW 9A.52.095)

NEW SECTION. Sec. 15. If funds are specifically appropriated to the prostitution prevention and intervention account as provided in RCW 43.63A.720 for the purposes provided in this section, the department of community, trade, and economic development shall prioritize such funds to provide minors who have a history of engaging in sexual conduct for a fee or are the victims of commercial sexual abuse of a minor with (1) residential treatment and services; (2) counseling services including mental health and substance abuse services and intensive case management; (3) services to engage the minors in school or vocational training; and (4) health care services.

NEW SECTION. Sec. 16. If funds are specifically appropriated to the prostitution prevention and intervention account as provided in RCW 43.63A.720 for the purposes provided in this section, the department of community, trade, and economic development shall prioritize such funds for training of law enforcement and community outreach and education on minors who have a history of engaging in sexual conduct for a fee or are the victims of commercial sexual abuse of a minor, including awareness training regarding the availability of services for minors under chapter 13.32A RCW."

On page 1, line 2 of the title, after "minors;" strike the remainder of the title and insert "amending RCW 9.68A.001, 9.68A.100, 9.68A.110, 19.138.340, 9A.88.140, 9.68A.105, 9A.88.120, and 9A.88.070; reenacting and amending RCW 9.94A.533 and 9.94A.515; adding new sections to chapter 9.68A RCW; adding a new section to chapter 9.94A RCW; creating new sections; and prescribing penalties." and the same are herewith transmitted.

RICHARD NAFZIGER, Chief Clerk

MOTION

Senator Kohl-Welles moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5718.

Senator Kohl-Welles spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Kohl-Welles that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5718.

The motion by Senator Kohl-Welles carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 5718 by voice vote.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5718, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5718, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Benton, Berkey, Brandland, Brown, Carrell, Clements, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, Morton, Murray, Oemig, Pflug, Poulsen, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Tom, Weinstein and Zarelli - 47

Excused: Senators Parlette and Prentice - 2

SUBSTITUTE SENATE BILL NO. 5718, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

April 5, 2007

MR. PRESIDENT:

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The House has passed SUBSTITUTE SENATE BILL NO. 5721 with the following amendment: 5721-S AMH CL H3160.2

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 66.28.010 and 2006 c 330 s 28, 2006 c 92 s 1, and 2006 c 43 s 1 are each reenacted and amended to read as follows:

(1)(a) No manufacturer, importer, distributor, or authorized representative, or person financially interested, directly or indirectly, in such business; whether resident or nonresident, shall have any financial interest, direct or indirect, in any licensed retail business, unless the retail business is owned by a corporation in which a manufacturer or importer has no direct stock ownership and there are no interlocking officers and directors, the retail license is held by a corporation that is not owned directly or indirectly by a manufacturer or importer, the sales of liquor are incidental to the primary activity of operating the property as a hotel, alcoholic beverages produced by the manufacturer or importer or their subsidiaries are not sold at the licensed premises, and the board reviews the ownership and proposed method of operation of all involved entities and determines that there will not be an unacceptable level of control or undue influence over the operation or the retail licensee; nor shall any manufacturer, importer, distributor, or authorized representative own any of the property upon which such licensed persons conduct their business; nor shall any such licensed person, under any arrangement whatsoever, conduct his or her business upon property in which any manufacturer, importer, distributor, or authorized representative has any interest unless title to that property is owned by a corporation in which a manufacturer has no direct stock ownership and there are no interlocking officers or directors, the retail license is held by a corporation that is not owned directly or indirectly by the manufacturer, the sales of liquor are incidental to the primary activity of operating the property either as a hotel or as an amphitheater offering live musical and similar live entertainment activities to the public, alcoholic beverages produced by the manufacturer or any of its subsidiaries are not sold at the licensed premises, and the board reviews the ownership and proposed method of operation of all involved entities and determines that there will not be an unacceptable level of control or undue influence over the operation of the retail licensee. Except as provided in subsection (3) of this section, no manufacturer, importer, distributor, or authorized representative shall advance moneys or moneys' worth to a licensed person under an arrangement, nor shall such licensed person receive, under an arrangement, an advance of moneys or moneys' worth. "Person" as used in this section only shall not include those state or federally chartered banks, state or federally chartered savings and loan associations, state or federally chartered mutual savings banks, or institutional investors which are not controlled directly or indirectly by a manufacturer, importer, distributor, or authorized representative as long as the bank, savings and loan association, or institutional investor does not influence or attempt to influence the purchasing practices of the retailer with respect to alcoholic beverages. Except as otherwise provided in this section, no manufacturer, importer, distributor, or authorized representative shall be eligible to receive or hold a retail license under this title, nor shall such manufacturer, importer, distributor, or authorized representative sell at retail any liquor as herein defined. A corporation granted an exemption under this subsection may use debt instruments issued in connection with financing construction or operations of its facilities.

(b) Nothing in this section shall prohibit a licensed domestic brewery or microbrewery from being licensed as a retailer pursuant to chapter 66.24 RCW for the purpose of selling beer or wine at retail on the brewery premises and nothing in this section shall prohibit a domestic winery from being licensed as a retailer pursuant to chapter 66.24 RCW for the purpose of selling beer or wine at retail on the winery premises. Such beer and wine so sold at retail shall be subject to the taxes imposed by RCW 66.24.290 and 66.24.210 and to reporting and bonding

requirements as prescribed by regulations adopted by the board pursuant to chapter 34.05 RCW, and beer and wine that is not produced by the brewery or winery shall be purchased from a licensed beer or wine distributor.

(c) Nothing in this section shall prohibit a licensed distiller, domestic brewery, microbrewery, domestic winery, or a lessee of a licensed domestic brewer, microbrewery, or domestic winery, from being licensed as a spirits, beer, and wine restaurant pursuant to chapter 66.24 RCW for the purpose of selling liquor at a spirits, beer, and wine restaurant premises on the property on which the primary manufacturing facility of the licensed distiller, domestic brewer, microbrewery, or domestic winery is located or on contiguous property owned or leased by the licensed distiller, domestic brewer, microbrewery, or domestic winery as prescribed by rules adopted by the board pursuant to chapter 34.05 RCW.

(d) Nothing in this section prohibits retail licensees with a caterer's endorsement issued under RCW 66.24.320 or 66.24.420 from operating on a domestic winery premises.

(e) Nothing in this section prohibits an organization qualifying under RCW 66.24.375 formed for the purpose of constructing and operating a facility to promote Washington wines from holding retail licenses on the facility property or leasing all or any portion of such facility property to a retail licensee on the facility property if the members of the board of directors or officers of the board for the organization include officers, directors, owners, or employees of a licensed domestic winery. Financing for the construction of the facility must include both public and private money.

(f) Nothing in this section prohibits a bona fide charitable nonprofit society or association registered as a 501(c)(3) under the internal revenue code and having an officer, director, owner, or employee of a licensed domestic winery or a wine certificate of approval holder on its board of directors from holding a special occasion license under RCW 66.24.380.

(g) Nothing in this section prohibits domestic wineries and retailers licensed under chapter 66.24 RCW from jointly producing brochures and materials promoting tourism in Washington state which contain information regarding retail licensees, domestic wineries, and their products.

(h) Nothing in this section prohibits domestic wineries and retail licensees from identifying the wineries on private labels authorized under RCW 66.24.400, 66.24.425, and 66.24.450.

(i) Until July 1, 2007, nothing in this section prohibits a nonprofit statewide organization of microbreweries formed for the purpose of promoting Washington's craft beer industry as a trade association registered as a 501(c) with the internal revenue service from holding a special occasion license to conduct up to six beer festivals.

(j) Nothing in this section shall prohibit a manufacturer, importer, or distributor from entering into an arrangement with any holder of a sports/entertainment facility license or an affiliated business for brand advertising at the licensed facility or promoting events held at the sports entertainment facility as authorized under RCW 66.24.570.

(2) Financial interest, direct or indirect, as used in this section, shall include any interest, whether by stock ownership, mortgage, lien, or through interlocking directors, or otherwise. Pursuant to rules promulgated by the board in accordance with chapter 34.05 RCW manufacturers, distributors, and importers may perform, and retailers may accept the service of building, rotating and restocking case displays and stock room inventories; rotating and rearranging can and bottle displays of their own products; provide point of sale material and brand signs; price case goods of their own brands; and perform such similar normal business services as the board may by regulation prescribe.

(3)(a) This section does not prohibit a manufacturer, importer, or distributor from providing services to a special occasion licensee for: (i) Installation of draft beer dispensing equipment or advertising, (ii) advertising, pouring, or dispensing of beer or wine at a beer or wine tasting exhibition or judging event, or (iii) a special occasion licensee from receiving any such services as may be provided by a manufacturer, importer, or distributor. Nothing in this section shall prohibit a retail

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licensee, or any person financially interested, directly or indirectly, in such a retail licensee from having a financial interest, direct or indirect, in a business which provides, for a compensation commensurate in value to the services provided, bottling, canning or other services to a manufacturer, so long as the retail licensee or person interested therein has no direct financial interest in or control of said manufacturer.

(b) A person holding contractual rights to payment from selling a liquor distributor's business and transferring the license shall not be deemed to have a financial interest under this section if the person (i) lacks any ownership in or control of the distributor, (ii) is not employed by the distributor, and (iii) does not influence or attempt to influence liquor purchases by retail liquor licensees from the distributor.

(c) The board shall adopt such rules as are deemed necessary to carry out the purposes and provisions of subsection (3)(a) of this section in accordance with the administrative procedure act, chapter 34.05 RCW.

(4) A license issued under RCW 66.24.395 does not constitute a retail license for the purposes of this section.

(5) A public house license issued under RCW 66.24.580 does not violate the provisions of this section as to a retailer having an interest directly or indirectly in a liquor-licensed manufacturer.

Sec. 2. RCW 66.24.570 and 2003 c 345 s 3 are each amended to read as follows:

(1) There is a license for sports entertainment facilities to be designated as a sports/entertainment facility license to sell beer, wine, and spirits at retail, for consumption upon the premises only, the license to be issued to the entity providing food and beverage service at a sports entertainment facility as defined in this section. The cost of the license is two thousand five hundred dollars per annum.

(2) For purposes of this section, a sports entertainment facility includes a publicly or privately owned arena, coliseum, stadium, or facility where sporting events are presented for a price of admission. The facility does not have to be exclusively used for sporting events.

(3) The board may impose reasonable requirements upon a licensee under this section, such as requirements for the availability of food and victuals including but not limited to hamburgers, sandwiches, salads, or other snack food. The board may also restrict the type of events at a sports entertainment facility at which beer, wine, and spirits may be served. When imposing conditions for a licensee, the board must consider the seating accommodations, eating facilities, and circulation patterns in such a facility, and other amenities available at a sports entertainment facility.

(4)(a) The board may issue a caterer's endorsement to the license under this section to allow the licensee to remove from the liquor stocks at the licensed premises, for use as liquor for sale and service at event locations at a specified date and place not currently licensed by the board. If the event is open to the public, it must be sponsored by a society or organization as defined by RCW 66.24.375. If attendance at the event is limited to members or invited guests of the sponsoring individual, society, or organization, the requirement that the sponsor must be a society or organization as defined by RCW 66.24.375 is waived. Cost of the endorsement is three hundred fifty dollars.

(b) The holder of this license with catering endorsement shall, if requested by the board, notify the board or its designee of the date, time, place, and location of any catered event. Upon request, the licensee shall provide to the board all necessary or requested information concerning the society or organization that will be holding the function at which the endorsed license will be utilized.

(5) The board may issue an endorsement to the beer, wine, and spirits sports/entertainment facility license that allows the holder of a beer, wine, and spirits sports/entertainment facility license to sell for off-premises consumption wine vinted and bottled in the state of Washington and carrying a label exclusive to the license holder selling the wine. Spirits and beer may not be sold for off-premises consumption under this section. The annual fee for the endorsement under this section is one hundred twenty dollars.

(6)(a) A licensee and an affiliated business may enter into arrangements with a manufacturer, importer, or distributor for brand advertising at the sports/entertainment facility or promotion of events held at the sports/entertainment facility, with a capacity of five thousand people or more. The financial arrangements providing for the brand advertising or promotion of events shall not be used as an inducement to purchase the products of the manufacturer, importer, or distributor entering into the arrangement nor shall it result in the exclusion of brands or products of other companies.

(b) The arrangements allowed under this subsection (6) are an exception to arrangements prohibited under RCW 66.28.010. The board shall monitor the impacts of these arrangements. The board may conduct audits of the licensee and the affiliated business to determine compliance with this subsection (6). Audits may include but are not limited to product selection at the facility; purchase patterns of the licensee; contracts with the liquor manufacturer, importer, or distributor; and the amount allocated or used for liquor advertising by the licensee, affiliated business, manufacturer, importer, or distributor under the arrangements.

(c) The board shall report to the appropriate committees of the legislature by December 30, 2008, and biennially thereafter, on the impacts of arrangements allowed between sports/entertainment licensees and liquor manufacturers, importers, and distributors for brand advertising and promotion of events at the facility."

Correct the title.
and the same are herewith transmitted.

RICHARD NAFZIGER, Chief Clerk

MOTION

Senator Kohl-Welles moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5721.

Senators Kohl-Welles and Clements spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Kohl-Welles that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5721.

The motion by Senator Kohl-Welles carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 5721 by voice vote.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5721, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5721, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 45; Nays, 2; Absent, 0; Excused, 2.

Voting yea: Senators Benton, Berkey, Brandland, Brown, Carrell, Clements, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, Murray, Oemig, Pflug, Poulsen, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Tom, Weinstein and Zarelli - 45

Voting nay: Senators McCaslin and Morton - 2

Excused: Senators Parlette and Prentice - 2

SUBSTITUTE SENATE BILL NO. 5721, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

April 11, 2007

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MR. PRESIDENT:

The House has passed SUBSTITUTE SENATE BILL NO. 5731, with the following amendment: 5731-S AMH ENGR H3305.E

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. The state of Washington leads the nation in providing employment for people with baccalaureate degrees, but only ranks thirty-sixth in the nation in the production of degrees. Beginning in 2007 it is estimated that for job openings in Washington that require a bachelor's degree, forty-seven percent will be in fields identified as high demand or high impact, but that only fourteen percent of Washington students each year graduate with degrees in one of these fields. Washington ranks among the top ten states in scientists and computer specialists employed per capita and leads the nation in engineers employed per capita, but must import employees to meet employer demands. Additionally, Washington does not produce a sufficient number of newly prepared workers in areas that require more than one year but less than four years of higher education. The in-state supply at this mid-level of education and training is sufficient to fill only eighty-three percent of employer job openings that require that level of training. Therefore, the legislature finds that Washington needs to produce eight to ten thousand additional baccalaureate degrees per year so that Washington employers will not have to look out of state to find employees. The legislature further finds that Washington needs to enroll over fourteen thousand additional students at the mid-level of education and training in order to meet employer demand.

NEW SECTION. Sec. 2. (1) A committee on the education of students in high demand fields is established to:

(a) Develop a plan to increase the number of baccalaureate degrees granted by Washington institutions of higher education by ten thousand per year and to significantly increase the number of certificates and associate degrees granted by 2020 with a special emphasis directed toward high impact, high demand areas of study;

(b) Develop a marketing project to inform students, parents, and educators of opportunities in high demand fields;

(c) Investigate ways to motivate students to take more mathematics and science courses in high school and college; and

(d) Identify ways that the business community can enter into more partnerships with the state to ensure that Washington institutions of higher education produce graduates in high demand fields that are ready and able to find employment in Washington.

(2) The committee shall be cochaired by a member of the house of representatives and a member of the senate. It shall consist of:

(a) Two members of the house of representatives, appointed by the speaker of the house of representatives;

(b) Two members of the senate, with one appointed by each major caucus of the senate;

(c) One person representing the higher education coordinating board, appointed by the director of the board;

(d) One person representing the state board for community and technical colleges, appointed by the director of the state board;

(e) One person representing the state workforce training and education coordinating board, appointed by the director of the board;

(f) One person representing the office of the superintendent of public instruction, appointed by the superintendent of public instruction;

(g) One person representing each of the following, appointed by the governor:

(i) The labor council;

(ii) The council of presidents;

(iii) The prosperity partnership;

(iv) The council of faculty representatives; and

(v) One employer of persons in high demand fields; and

(h) A graduate student member of the Washington student lobby, appointed by the governor.

(3) The committee shall receive staff and logistical support from senate committee services and the office of program research.

(4) The committee shall report its findings and recommendations to appropriate committees of the legislature by December 1, 2007.

(5) This section expires December 31, 2007." and the same are herewith transmitted.

RICHARD NAFZIGER, Chief Clerk

MOTION

Senator Shin moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5731.

Senator Shin spoke in favor of the motion.

MOTION

On motion of Senator Regala, Senator Kline was excused.

The President declared the question before the Senate to be the motion by Senator Shin that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5731.

The motion by Senator Shin carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 5731 by voice vote.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5731, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5731, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 46; Nays, 1; Absent, 0; Excused, 2.

Voting yea: Senators Benton, Berkey, Brandland, Brown, Carrell, Clements, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kohl-Welles, Marr, McAuliffe, McCaslin, Morton, Murray, Oemig, Parlette, Pflug, Poulsen, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Tom, Weinstein and Zarelli - 46

Voting nay: Senator Honeyford - 1

Excused: Senators Kline and Prentice - 2

SUBSTITUTE SENATE BILL NO. 5731, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

April 9, 2007

MR. PRESIDENT:

The House has passed ENGROSSED SUBSTITUTE SENATE BILL NO. 5770, with the following amendment: 5770-S.E AMH SGTA H3285.1

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 28B.10.350 and 2001 c 38 s 1 are each amended to read as follows:

(1) When the cost to The Evergreen State College(~~(;)~~) or any regional (~~(university;)~~) or state university(~~(;)~~) of any building, construction, renovation, remodeling, or demolition, other than maintenance or repairs, will equal or exceed the sum of (~~(thirty-five)~~) fifty-five thousand dollars, or thirty-five thousand dollars if the work involves one trade or craft area, complete plans and specifications for (~~(such))~~ the work shall be prepared (~~(and~~

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~~such~~), the work shall be put out for public bid(s), and the contract shall be awarded to the ~~((lowest))~~ responsible bidder ~~((if in accordance with the bid specifications: PROVIDED, That when such building, construction, renovation, remodeling, or demolition involves one trade or craft area and the estimated cost exceeds ten thousand dollars, complete plans and specifications for such work shall be prepared and such work shall be put out for public bids, and the contract shall be awarded to the lowest responsible bidder if in accordance with the bid specifications. This subsection shall not apply when a contract is awarded by the small works roster procedure authorized in RCW 39.04.155 or under any other procedure authorized for an institution of higher education))~~ who submits the lowest responsive bid.

~~(2) Any building, construction, renovation, remodeling, or demolition project that exceeds the dollar amounts in subsection (1) of this section is subject to the provisions of chapter 39.12 RCW.~~

~~(3) The Evergreen State College(s) or any regional ((university;)) or state university may require a project to be put to public bid even when it is not required to do so under subsection (1) of this section. Any project publicly bid under this subsection is subject to the provisions of chapter 39.12 RCW.~~

~~((3)) (4) Where the estimated cost ((to The Evergreen State College, any regional university, or state university)) of any building, construction, renovation, remodeling, or demolition is less than ((twenty-five)) fifty-five thousand dollars or the contract is awarded by the small works roster procedure authorized in RCW 39.04.155, the publication requirements of RCW 39.04.020 ~~((shall be inapplicable))~~ do not apply.~~

~~((4)) (5) In the event of any emergency when the public interest or property of The Evergreen State College(s) or a regional ((university;)) or state university would suffer material injury or damage by delay, the president of such college or university may declare the existence of ((such)) an emergency and, reciting the facts constituting the same, may waive the requirements of this section with reference to any contract in order to correct the condition causing the emergency((PROVIDED, That an "emergency,") For the purposes of this section, "emergency" means a condition likely to result in immediate physical injury to persons or to property of ((such)) the college or university in the absence of prompt remedial action or a condition which immediately impairs the institution's ability to perform its educational obligations.~~

~~(6) This section does not apply when a contract is awarded by the small works roster procedure authorized in RCW 39.04.155 or under any other procedure authorized for an institution of higher education.~~

Sec. 2. RCW 28B.50.330 and 1993 c 379 s 108 are each amended to read as follows:

(1) The boards of trustees of college districts are empowered in accordance with the provisions of this chapter to provide for the construction, reconstruction, erection, equipping, demolition, and major alterations of buildings and other capital assets, and the acquisition of sites, rights-of-way, easements, improvements, or appurtenances for the use of the aforementioned colleges as authorized by the college board in accordance with RCW 28B.50.140; to be financed by bonds payable out of special funds from revenues hereafter derived from income received from such facilities, gifts, bequests, or grants, and such additional funds as the legislature may provide, and payable out of a bond retirement fund to be established by the respective district boards in accordance with rules and regulations of the state board. With respect to building, improvements, or repairs, or other work, where the estimated cost exceeds ((twenty-five)) fifty-five thousand dollars, or thirty-five thousand dollars if the work involves one trade or craft area, complete plans and specifications for ((such)) the work shall be prepared ((and such)), the work shall be put out for a public bid(s), and the

contract shall be awarded to the ~~((lowest))~~ responsible bidder ~~((if in accordance with the bid specifications: PROVIDED, That when such building, construction, renovation, remodeling, or demolition involves one trade or craft area and the estimated cost exceeds ten thousand dollars, complete plans and specifications for such work shall be prepared and such work shall be put out for public bids, and the contract shall be awarded to the lowest responsible bidder if in accordance with the bid specifications))~~ who submits the lowest responsive bid. Any project regardless of dollar amount may be put to public bid.

~~(2) This ((subsection shall)) section does not apply when a contract is awarded by the small works roster procedure authorized in RCW ((39.04.150: PROVIDED FURTHER, That any project regardless of dollar amount may be put to public bid)) 39.04.155.~~

~~(3) Where the estimated cost to any college of any building, improvements, or repairs, or other work, is less than ((twenty-five thousand dollars)) fifty-five thousand dollars, or thirty-five thousand dollars if the work involves one trade or craft area, the publication requirements of RCW 39.04.020 ~~((shall be inapplicable))~~ do not apply." and the same are herewith transmitted.~~

RICHARD NAFZIGER, Chief Clerk

MOTION

Senator Shin moved that the Senate concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 5770.

Senator Shin spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Shin that the Senate concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 5770.

The motion by Senator Shin carried and the Senate concurred in the House amendment(s) to Engrossed Substitute Senate Bill No. 5770 by voice vote.

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 5770, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 5770, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 45; Nays, 4; Absent, 0; Excused, 0.

Voting yea: Senators Benton, Berkey, Brandland, Brown, Clements, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, Morton, Murray, Oemig, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Swecker, Tom, Weinstein and Zarelli - 45

Voting nay: Senators Carrell, Holmquist, Honeyford and Stevens - 4

ENGROSSED SUBSTITUTE SENATE BILL NO. 5770, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

April 10, 2007

MR. PRESIDENT:

The House has passed ENGROSSED SUBSTITUTE SENATE BILL NO. 5774, with the following amendment: 5774-S.E AMH KAGI H3373.2

Strike everything after the enacting clause and insert the following:

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"NEW SECTION. Sec. 1. A new section is added to chapter 43.43 RCW to read as follows:

(1) In order to determine the character, competence, and suitability of any applicant or service provider to have unsupervised access, the secretary may require a fingerprint-based background check through the Washington state patrol and the federal bureau of investigation at anytime, but shall require a fingerprint-based background check when the applicant or service provider has resided in the state less than three consecutive years before application, and:

(a) Is an applicant or service provider providing services to children or people with developmental disabilities under RCW 74.15.030;

(b) Is an individual residing in an applicant or service provider's home, facility, entity, agency, or business or who is authorized by the department to provide services to children or people with developmental disabilities under RCW 74.15.030; or

(c) Is an applicant or service provider providing in-home services funded by:

(i) Medicaid personal care under RCW 74.09.520;

(ii) Community options program entry system waiver services under RCW 74.39A.030;

(iii) Chore services under RCW 74.39A.110; or

(iv) Other home and community long-term care programs, established pursuant to chapters 74.39 and 74.39A RCW, administered by the department.

(2) The secretary shall require a fingerprint-based background check through the Washington state patrol identification and criminal history section and the federal bureau of investigation when the department seeks to approve an applicant or service provider for a foster or adoptive placement of children in accordance with federal and state law.

(3) Any secure facility operated by the department under chapter 71.09 RCW shall require applicants and service providers to undergo a fingerprint-based background check through the Washington state patrol identification and criminal history section and the federal bureau of investigation.

(4) Service providers and service provider applicants who are required to complete a fingerprint-based background check may be hired for a one hundred twenty-day provisional period as allowed under law or program rules when:

(a) A fingerprint-based background check is pending; and

(b) The applicant or service provider is not disqualified based on the immediate result of the background check.

(5) Fees charged by the Washington state patrol and the federal bureau of investigation for fingerprint-based background checks shall be paid by the department for applicants or service providers providing:

(a) Services to people with a developmental disability under RCW 74.15.030;

(b) In-home services funded by medicaid personal care under RCW 74.09.520;

(c) Community options program entry system waiver services under RCW 74.39A.030;

(d) Chore services under RCW 74.39A.110;

(e) Services under other home and community long-term care programs, established pursuant to chapters 74.39 and 74.39A RCW, administered by the department;

(f) Services in, or to residents of, a secure facility under RCW 71.09.115; and

(g) Foster care as required under RCW 74.15.030.

(6) Service providers licensed under RCW 74.15.030 must pay fees charged by the Washington state patrol and the federal bureau of investigation for conducting fingerprint-based background checks.

(7) Children's administration service providers licensed under RCW 74.15.030 may not pass on the cost of the background check fees to their applicants unless the individual is determined to be disqualified due to the background information.

(8) The department shall develop rules identifying the financial responsibility of service providers, applicants, and the department for paying the fees charged by law enforcement to roll, print, or scan fingerprints-based for the purpose of a

Washington state patrol or federal bureau of investigation fingerprint-based background check.

(9) For purposes of this section, unless the context plainly indicates otherwise:

(a) "Applicant" means a current or prospective department or service provider employee, volunteer, student, intern, researcher, contractor, or any other individual who will or may have unsupervised access because of the nature of the work or services he or she provides. "Applicant" includes but is not limited to any individual who will or may have unsupervised access and is:

(i) Applying for a license or certification from the department;

(ii) Seeking a contract with the department or a service provider;

(iii) Applying for employment, promotion, reallocation, or transfer;

(iv) An individual that a department client or guardian of a department client chooses to hire or engage to provide services to himself or herself or another vulnerable adult, juvenile, or child and who might be eligible to receive payment from the department for services rendered; or

(v) A department applicant who will or may work in a department-covered position.

(b) "Authorized" means the department grants an applicant, home, or facility permission to:

(i) Conduct licensing, certification, or contracting activities;

(ii) Have unsupervised access to vulnerable adults, juveniles, and children;

(iii) Receive payments from a department program; or

(iv) Work or serve in a department-covered position.

(c) "Department" means the department of social and health services.

(d) "Secretary" means the secretary of the department of social and health services.

(e) "Secure facility" has the meaning provided in RCW 71.09.020.

(f) "Service provider" means entities, facilities, agencies, businesses, or individuals who are licensed, certified, authorized, or regulated by, receive payment from, or have contracts or agreements with the department to provide services to vulnerable adults, juveniles, or children. "Service provider" includes individuals whom a department client or guardian of a department client may choose to hire or engage to provide services to himself or herself or another vulnerable adult, juvenile, or child and who might be eligible to receive payment from the department for services rendered. "Service provider" does not include those certified under chapter 70.96A RCW.

Sec. 2. RCW 26.33.190 and 1991 c 136 s 3 are each amended to read as follows:

(1) Any person may at any time request an agency, the department, an individual approved by the court, or a qualified salaried court employee to prepare a preplacement report. A certificate signed under penalty of perjury by the person preparing the report specifying his or her qualifications as required in this chapter shall be attached to or filed with each preplacement report and shall include a statement of training or experience that qualifies the person preparing the report to discuss relevant adoption issues. A person may have more than one preplacement report prepared. All preplacement reports shall be filed with the court in which the petition for adoption is filed.

(2) The preplacement report shall be a written document setting forth all relevant information relating to the fitness of the person requesting the report as an adoptive parent. The report shall be based on a study which shall include an investigation of the home environment, family life, health, facilities, and resources of the person requesting the report. The report shall include a list of the sources of information on which the report is based. The report shall include a recommendation as to the fitness of the person requesting the report to be an adoptive parent. The report shall also verify that the following issues were discussed with the prospective adoptive parents:

(a) The concept of adoption as a lifelong developmental process and commitment;

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(b) The potential for the child to have feelings of identity confusion and loss regarding separation from the birth parents;

(c) Disclosure of the fact of adoption to the child;

(d) The child's possible questions about birth parents and relatives; and

(e) The relevance of the child's racial, ethnic, and cultural heritage.

(3) All preplacement reports shall include ~~((an investigation))~~ a background check of ~~((the))~~ any conviction records, pending charges, or disciplinary board final decisions of prospective adoptive parents. The ~~((investigation))~~ background check shall include an examination of state and national criminal identification data provided by the Washington state patrol criminal identification system ~~((as described in chapter 43.43 RCW))~~ including, but not limited to, a fingerprint-based background check of national crime information databases for any person being investigated. It shall also include a review of any child abuse and neglect history of any adult living in the prospective adoptive parents' home. The background check of the child abuse and neglect history shall include a review of the child abuse and neglect registries of all states in which the prospective adoptive parents or any other adult living in the home have lived during the five years preceding the date of the preplacement report.

(4) An agency, the department, or a court approved individual may charge a reasonable fee based on the time spent in conducting the study and preparing the preplacement report. The court may set a reasonable fee for conducting the study and preparing the report when a court employee has prepared the report. An agency, the department, a court approved individual, or the court may reduce or waive the fee if the financial condition of the person requesting the report so warrants. An agency's, the department's, or court approved individual's, fee is subject to review by the court upon request of the person requesting the report.

(5) The person requesting the report shall designate to the agency, the department, the court approved individual, or the court in writing the county in which the preplacement report is to be filed. If the person requesting the report has not filed a petition for adoption, the report shall be indexed in the name of the person requesting the report and a cause number shall be assigned. A fee shall not be charged for filing the report. The applicable filing fee may be charged at the time a petition governed by this chapter is filed. Any subsequent preplacement reports shall be filed together with the original report.

(6) A copy of the completed preplacement report shall be delivered to the person requesting the report.

(7) A person may request that a report not be completed. A reasonable fee may be charged for the value of work done.

Sec. 3. RCW 26.44.030 and 2005 c 417 s 1 are each amended to read as follows:

(1)(a) When any practitioner, county coroner or medical examiner, law enforcement officer, professional school personnel, registered or licensed nurse, social service counselor, psychologist, pharmacist, employee of the department of early learning, licensed or certified child care providers or their employees, employee of the department, juvenile probation officer, placement and liaison specialist, responsible living skills program staff, HOPE center staff, or state family and children's ombudsman or any volunteer in the ombudsman's office has reasonable cause to believe that a child has suffered abuse or neglect, he or she shall report such incident, or cause a report to be made, to the proper law enforcement agency or to the department as provided in RCW 26.44.040.

(b) When any person, in his or her official supervisory capacity with a nonprofit or for-profit organization, has reasonable cause to believe that a child has suffered abuse or neglect caused by a person over whom he or she regularly exercises supervisory authority, he or she shall report such incident, or cause a report to be made, to the proper law enforcement agency, provided that the person alleged to have caused the abuse or neglect is employed by, contracted by, or volunteers with the organization and coaches, trains, educates, or counsels a child or children or regularly has unsupervised access to a child or children as part of the employment, contract,

or voluntary service. No one shall be required to report under this section when he or she obtains the information solely as a result of a privileged communication as provided in RCW 5.60.060.

Nothing in this subsection (1)(b) shall limit a person's duty to report under (a) of this subsection.

For the purposes of this subsection, the following definitions apply:

(i) "Official supervisory capacity" means a position, status, or role created, recognized, or designated by any nonprofit or for-profit organization, either for financial gain or without financial gain, whose scope includes, but is not limited to, overseeing, directing, or managing another person who is employed by, contracted by, or volunteers with the nonprofit or for-profit organization.

(ii) "Regularly exercises supervisory authority" means to act in his or her official supervisory capacity on an ongoing or continuing basis with regards to a particular person.

(c) The reporting requirement also applies to department of corrections personnel who, in the course of their employment, observe offenders or the children with whom the offenders are in contact. If, as a result of observations or information received in the course of his or her employment, any department of corrections personnel has reasonable cause to believe that a child has suffered abuse or neglect, he or she shall report the incident, or cause a report to be made, to the proper law enforcement agency or to the department as provided in RCW 26.44.040.

(d) The reporting requirement shall also apply to any adult who has reasonable cause to believe that a child who resides with them, has suffered severe abuse, and is able or capable of making a report. For the purposes of this subsection, "severe abuse" means any of the following: Any single act of abuse that causes physical trauma of sufficient severity that, if left untreated, could cause death; any single act of sexual abuse that causes significant bleeding, deep bruising, or significant external or internal swelling; or more than one act of physical abuse, each of which causes bleeding, deep bruising, significant external or internal swelling, bone fracture, or unconsciousness.

(e) The report must be made at the first opportunity, but in no case longer than forty-eight hours after there is reasonable cause to believe that the child has suffered abuse or neglect. The report must include the identity of the accused if known.

(2) The reporting requirement of subsection (1) of this section does not apply to the discovery of abuse or neglect that occurred during childhood if it is discovered after the child has become an adult. However, if there is reasonable cause to believe other children are or may be at risk of abuse or neglect by the accused, the reporting requirement of subsection (1) of this section does apply.

(3) Any other person who has reasonable cause to believe that a child has suffered abuse or neglect may report such incident to the proper law enforcement agency or to the department of social and health services as provided in RCW 26.44.040.

(4) The department, upon receiving a report of an incident of alleged abuse or neglect pursuant to this chapter, involving a child who has died or has had physical injury or injuries inflicted upon him or her other than by accidental means or who has been subjected to alleged sexual abuse, shall report such incident to the proper law enforcement agency. In emergency cases, where the child's welfare is endangered, the department shall notify the proper law enforcement agency within twenty-four hours after a report is received by the department. In all other cases, the department shall notify the law enforcement agency within seventy-two hours after a report is received by the department. If the department makes an oral report, a written report must also be made to the proper law enforcement agency within five days thereafter.

(5) Any law enforcement agency receiving a report of an incident of alleged abuse or neglect pursuant to this chapter, involving a child who has died or has had physical injury or injuries inflicted upon him or her other than by accidental means, or who has been subjected to alleged sexual abuse, shall report such incident in writing as provided in RCW 26.44.040 to

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the proper county prosecutor or city attorney for appropriate action whenever the law enforcement agency's investigation reveals that a crime may have been committed. The law enforcement agency shall also notify the department of all reports received and the law enforcement agency's disposition of them. In emergency cases, where the child's welfare is endangered, the law enforcement agency shall notify the department within twenty-four hours. In all other cases, the law enforcement agency shall notify the department within seventy-two hours after a report is received by the law enforcement agency.

(6) Any county prosecutor or city attorney receiving a report under subsection (5) of this section shall notify the victim, any persons the victim requests, and the local office of the department, of the decision to charge or decline to charge a crime, within five days of making the decision.

(7) The department may conduct ongoing case planning and consultation with those persons or agencies required to report under this section, with consultants designated by the department, and with designated representatives of Washington Indian tribes if the client information exchanged is pertinent to cases currently receiving child protective services. Upon request, the department shall conduct such planning and consultation with those persons required to report under this section if the department determines it is in the best interests of the child. Information considered privileged by statute and not directly related to reports required by this section must not be divulged without a valid written waiver of the privilege.

(8) Any case referred to the department by a physician licensed under chapter 18.57 or 18.71 RCW on the basis of an expert medical opinion that child abuse, neglect, or sexual assault has occurred and that the child's safety will be seriously endangered if returned home, the department shall file a dependency petition unless a second licensed physician of the parents' choice believes that such expert medical opinion is incorrect. If the parents fail to designate a second physician, the department may make the selection. If a physician finds that a child has suffered abuse or neglect but that such abuse or neglect does not constitute imminent danger to the child's health or safety, and the department agrees with the physician's assessment, the child may be left in the parents' home while the department proceeds with reasonable efforts to remedy parenting deficiencies.

(9) Persons or agencies exchanging information under subsection (7) of this section shall not further disseminate or release the information except as authorized by state or federal statute. Violation of this subsection is a misdemeanor.

(10) Upon receiving reports of alleged abuse or neglect, the department or law enforcement agency may interview children. The interviews may be conducted on school premises, at day-care facilities, at the child's home, or at other suitable locations outside of the presence of parents. Parental notification of the interview must occur at the earliest possible point in the investigation that will not jeopardize the safety or protection of the child or the course of the investigation. Prior to commencing the interview the department or law enforcement agency shall determine whether the child wishes a third party to be present for the interview and, if so, shall make reasonable efforts to accommodate the child's wishes. Unless the child objects, the department or law enforcement agency shall make reasonable efforts to include a third party in any interview so long as the presence of the third party will not jeopardize the course of the investigation.

(11) Upon receiving a report of alleged child abuse and neglect, the department or investigating law enforcement agency shall have access to all relevant records of the child in the possession of mandated reporters and their employees.

(12) In investigating and responding to allegations of child abuse and neglect, the department may conduct background checks as authorized by state and federal law.

(13) The department shall maintain investigation records and conduct timely and periodic reviews of all cases constituting abuse and neglect. The department shall maintain a log of screened-out nonabusive cases.

~~((+3))~~ (14) The department shall use a risk assessment process when investigating alleged child abuse and neglect referrals. The department shall present the risk factors at all hearings in which the placement of a dependent child is an issue. Substance abuse must be a risk factor. The department shall, within funds appropriated for this purpose, offer enhanced community-based services to persons who are determined not to require further state intervention.

~~((+4))~~ (15) Upon receipt of a report of alleged abuse or neglect the law enforcement agency may arrange to interview the person making the report and any collateral sources to determine if any malice is involved in the reporting.

~~((+5))~~ (16) The department shall make reasonable efforts to learn the name, address, and telephone number of each person making a report of abuse or neglect under this section. The department shall provide assurances of appropriate confidentiality of the identification of persons reporting under this section. If the department is unable to learn the information required under this subsection, the department shall only investigate cases in which: (a) The department believes there is a serious threat of substantial harm to the child; (b) the report indicates conduct involving a criminal offense that has, or is about to occur, in which the child is the victim; or (c) the department has, after investigation, a report of abuse or neglect that has been founded with regard to a member of the household within three years of receipt of the referral.

Sec. 4. RCW 43.43.842 and 1998 c 10 s 4 are each amended to read as follows:

(1)(a) The secretary of social and health services and the secretary of health shall adopt additional requirements for the licensure or relicensure of agencies, facilities, and licensed individuals who provide care and treatment to vulnerable adults, including nursing pools registered under chapter 18.52C RCW. These additional requirements shall ensure that any person associated with a licensed agency or facility having unsupervised access with a vulnerable adult shall not be the respondent in an active protective order under RCW 74.34.130, nor have been: (i) Convicted of a crime against persons as defined in RCW 43.43.830, except as provided in this section; (ii) convicted of crimes relating to financial exploitation as defined in RCW 43.43.830, except as provided in this section; or (iii) found in any disciplinary board final decision to have abused a vulnerable adult under RCW 43.43.830(~~;~~ or (iv) ~~the subject in a protective proceeding under chapter 74.34 RCW).~~)

(b) A person associated with a licensed agency or facility who has unsupervised access with a vulnerable adult shall make the disclosures specified in RCW 43.43.834(2). The person shall make the disclosures in writing, sign, and swear to the contents under penalty of perjury. The person shall, in the disclosures, specify all crimes against children or other persons, all crimes relating to financial exploitation, and all crimes relating to drugs as defined in RCW 43.43.830, committed by the person.

(2) The rules adopted under this section shall permit the licensee to consider the criminal history of an applicant for employment in a licensed facility when the applicant has one or more convictions for a past offense and:

(a) The offense was simple assault, assault in the fourth degree, or the same offense as it may be renamed, and three or more years have passed between the most recent conviction and the date of application for employment;

(b) The offense was prostitution, or the same offense as it may be renamed, and three or more years have passed between the most recent conviction and the date of application for employment;

(c) The offense was theft in the third degree, or the same offense as it may be renamed, and three or more years have passed between the most recent conviction and the date of application for employment;

(d) The offense was theft in the second degree, or the same offense as it may be renamed, and five or more years have passed between the most recent conviction and the date of application for employment;

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(e) The offense was forgery, or the same offense as it may be renamed, and five or more years have passed between the most recent conviction and the date of application for employment.

The offenses set forth in (a) through (e) of this subsection do not automatically disqualify an applicant from employment by a licensee. Nothing in this section may be construed to require the employment of any person against a licensee's judgment.

(3) In consultation with law enforcement personnel, the secretary of social and health services and the secretary of health shall investigate, or cause to be investigated, the conviction record and the protection proceeding record information under this chapter of the staff of each agency or facility under their respective jurisdictions seeking licensure or relicensure. An individual responding to a criminal background inquiry request from his or her employer or potential employer shall disclose the information about his or her criminal history under penalty of perjury. The secretaries shall use the information solely for the purpose of determining eligibility for licensure or relicensure. Criminal justice agencies shall provide the secretaries such information as they may have and that the secretaries may require for such purpose.

Sec. 5. RCW 74.15.030 and 2006 c 265 s 402 and 2006 c 54 s 8 are each reenacted and amended to read as follows:

The secretary shall have the power and it shall be the secretary's duty:

(1) In consultation with the children's services advisory committee, and with the advice and assistance of persons representative of the various type agencies to be licensed, to designate categories of facilities for which separate or different requirements shall be developed as may be appropriate whether because of variations in the ages, sex and other characteristics of persons served, variations in the purposes and services offered or size or structure of the agencies to be licensed hereunder, or because of any other factor relevant thereto;

(2) In consultation with the children's services advisory committee, and with the advice and assistance of persons representative of the various type agencies to be licensed, to adopt and publish minimum requirements for licensing applicable to each of the various categories of agencies to be licensed.

The minimum requirements shall be limited to:

(a) The size and suitability of a facility and the plan of operation for carrying out the purpose for which an applicant seeks a license;

(b) ~~(The character, suitability and competence of an agency and other persons associated with an agency directly responsible for the care and treatment of children, expectant mothers or developmentally disabled persons.~~

~~In consultation with law enforcement personnel, the secretary shall investigate the conviction record or pending charges and dependency record information under chapter 43.43 RCW of each agency and its staff seeking licensure or relicensure.~~

~~No unfounded allegation of child abuse or neglect as defined in RCW 26.44.020 may be disclosed to a child-placing agency, private adoption agency, or any other provider licensed under this chapter. In order to determine the suitability of applicants for an agency license, licensees, their employees, and other persons who have unsupervised access to children in care, and who have not resided in the state of Washington during the three-year period before being authorized to care for children shall be fingerprinted. The fingerprints shall be forwarded to the Washington state patrol and federal bureau of investigation for a criminal history records check. The fingerprint criminal history records checks will be at the expense of the licensee except that in the case of a foster family home, if this expense would work a hardship on the licensee, the department shall pay the expense.~~

~~The licensee may not pass this cost on to the employee or prospective employee, unless the employee is determined to be unsuitable due to his or her criminal history record. The secretary shall use the information solely for the purpose of determining eligibility for a license and for determining the character, suitability, and competence of those persons or agencies, excluding parents, not required to be licensed who are~~

~~authorized to care for children, expectant mothers, and developmentally disabled persons. Criminal justice agencies shall provide the secretary such information as they may have and that the secretary may require for such purpose;~~

~~(c)) Obtaining background information and any out-of-state equivalent, to determine whether the applicant or service provider is disqualified and to determine the character, competence, and suitability of an agency, the agency's employees, volunteers, and other persons associated with an agency;~~

~~(c) Conducting background checks for those who will or may have unsupervised access to children, expectant mothers, or individuals with a developmental disability;~~

~~(d) Obtaining child protective services information or records maintained in the department case management information system. No unfounded allegation of child abuse or neglect as defined in RCW 26.44.020 may be disclosed to a child-placing agency, private adoption agency, or any other provider licensed under this chapter;~~

~~(e) Submitting a fingerprint-based background check through the Washington state patrol under chapter 10.97 RCW and through the federal bureau of investigation for:~~

~~(i) Agencies and their staff, volunteers, students, and interns when the agency is seeking license or relicensure;~~

~~(ii) Foster care and adoption placements; and~~

~~(iii) Any adult living in a home where a child may be placed;~~

~~(f) If any adult living in the home has not resided in the state of Washington for the preceding five years, the department shall review any child abuse and neglect registries maintained by any state where the adult has resided over the preceding five years;~~

~~(g) The cost of fingerprint background check fees will be paid as required in section 1 of this act;~~

~~(h) National and state background information must be used solely for the purpose of determining eligibility for a license and for determining the character, suitability, and competence of those persons or agencies, excluding parents, not required to be licensed who are authorized to care for children or expectant mothers;~~

~~(i) The number of qualified persons required to render the type of care and treatment for which an agency seeks a license;~~

~~((f)) (j) The safety, cleanliness, and general adequacy of the premises to provide for the comfort, care and well-being of children, expectant mothers or developmentally disabled persons;~~

~~((e)) (k) The provision of necessary care, including food, clothing, supervision and discipline; physical, mental and social well-being; and educational, recreational and spiritual opportunities for those served;~~

~~((f)) (l) The financial ability of an agency to comply with minimum requirements established pursuant to chapter 74.15 RCW and RCW 74.13.031; and~~

~~((g)) (m) The maintenance of records pertaining to the admission, progress, health and discharge of persons served;~~

(3) To investigate any person, including relatives by blood or marriage except for parents, for character, suitability, and competence in the care and treatment of children, expectant mothers, and developmentally disabled persons prior to authorizing that person to care for children, expectant mothers, and developmentally disabled persons. However, if a child is placed with a relative under RCW 13.34.065 or 13.34.130, and if such relative appears otherwise suitable and competent to provide care and treatment the criminal history background check required by this section need not be completed before placement, but shall be completed as soon as possible after placement;

(4) On reports of alleged child abuse and neglect, to investigate agencies in accordance with chapter 26.44 RCW, including child day-care centers and family day-care homes, to determine whether the alleged abuse or neglect has occurred, and whether child protective services or referral to a law enforcement agency is appropriate;

(5) To issue, revoke, or deny licenses to agencies pursuant to chapter 74.15 RCW and RCW 74.13.031. Licenses shall

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specify the category of care which an agency is authorized to render and the ages, sex and number of persons to be served;

(6) To prescribe the procedures and the form and contents of reports necessary for the administration of chapter 74.15 RCW and RCW 74.13.031 and to require regular reports from each licensee;

(7) To inspect agencies periodically to determine whether or not there is compliance with chapter 74.15 RCW and RCW 74.13.031 and the requirements adopted hereunder;

(8) To review requirements adopted hereunder at least every two years and to adopt appropriate changes after consultation with affected groups for child day-care requirements and with the children's services advisory committee for requirements for other agencies;

(9) To engage in negotiated rule making pursuant to RCW 34.05.310(2)(a) with the exclusive representative of the family child care licensees selected in accordance with RCW 74.15.035 and with other affected interests before adopting requirements that affect family child care licensees; and

(10) To consult with public and private agencies in order to help them improve their methods and facilities for the care of children, expectant mothers and developmentally disabled persons.

NEW SECTION. Sec. 6. Federal and state law require the balancing of the privacy interests of individuals with the government's interest in the protection of children and vulnerable adults. The legislature finds that the balancing of these interests may be skewed in favor of the privacy rights of individuals. Therefore, a work group is created to research the current laws regarding background checks for prospective employees of public and private entities which work with vulnerable adults or children. The legislature finds that a comprehensive background check which includes both civil and criminal information is a valuable tool in safeguarding vulnerable adults and children from preventable risk.

NEW SECTION. Sec. 7. (1) The department of social and health services shall convene a work group to: (a) Review the current federal and state laws and administrative rules and practices with respect to sharing confidential information; (b) analyze how state agencies use background check information to make employment decisions, including how such information may disqualify an individual for employment; and (c) examine the need for and feasibility of verifying citizenship or immigration status of persons for whom background checks are required.

(2)(a) The work group shall include but not be limited to the following members, chosen by the chief executive officer of each entity:

(i) A representative of the department of social and health services;

(ii) A representative of the department of early learning;

(iii) A representative of the department of health;

(iv) A representative of the office of the superintendent of public instruction;

(v) A representative of the department of licensing;

(vi) A representative of the Washington state patrol;

(vii) A representative from the Washington state bar association;

(viii) A representative of the Washington association of sheriffs and police chiefs;

(ix) A representative of the Washington association of criminal defense attorneys;

(x) A representative from the administrative office of the courts; and

(xi) A representative from the department of information services.

(b) The work group shall also include as nonvoting ex officio members:

(i) One member from each of the two largest caucuses of the senate, appointed by the president of the senate; and

(ii) One member from each of the two largest caucuses of the house of representatives, appointed by the speaker of the house of representatives.

(c) Additional voting members may be invited to participate as determined by the work group.

(3) Appointments to the work group shall be completed within thirty days of the effective date of this section.

(4) The work group may form an executive committee, create subcommittees, designate alternative representatives, and define other procedures, as needed, for operation of the work group.

(5) Legislative members of the work group shall be reimbursed for travel expenses under RCW 44.04.120. Nonlegislative members, except those representing an employee or organization, are entitled to be reimbursed for travel expenses in accordance with RCW 43.03.050 and 43.03.060.

(6) The secretary of the department of social and health services or the secretary's designee shall serve as chair of the work group.

(7) The department of social and health services shall provide staff support to the work group.

(8) The work group shall:

(a) Provide an interim report to the legislature and the governor by December 1, 2007; and

(b) Make recommendations to the legislature and the governor by July 1, 2008, regarding improving current processes for sharing and use of background information, including but not limited to the feasibility of creating a clearinghouse of information.

(i) The clearinghouse shall simplify administrative handling of background check requests and reduce the total costs and number of full-time employees involved in doing the work, develop expertise in searching multiple databases, and include a process for reducing the total amount of time it takes to process background checks, including using workflow management software to improve transparency of process impediments.

(ii) The workgroup should consider where to locate the administrative work, possibly considering the use of the department of licensing's facilities for collecting fingerprints and other identifying information about applicants.

(9) This section expires November 30, 2008.

Sec. 8. RCW 41.06.475 and 2002 c 354 s 222 are each amended to read as follows:

The director shall adopt rules, in cooperation with the ~~((secretary of social and health services, for the background investigation of persons being considered for state employment in positions directly responsible for the supervision, care, or treatment of children or developmentally disabled persons))~~ director of the department of early learning, for the background investigation of current employees and of persons being actively considered for positions with the department who will or may have unsupervised access to children. The director shall also adopt rules, in cooperation with the director of the department of early learning, for background investigation of positions otherwise required by federal law to meet employment standards. "Considered for positions" includes decisions about (1) initial hiring, layoffs, reallocations, transfers, promotions, or demotions, or (2) other decisions that result in an individual being in a position that will or may have unsupervised access to children as an employee, an intern, or a volunteer.

Sec. 9. RCW 43.43.830 and 2005 c 421 s 1 are each amended to read as follows:

Unless the context clearly requires otherwise, the definitions in this section apply throughout RCW 43.43.830 through 43.43.845.

(1) "Applicant" means:

(a) Any prospective employee who will or may have unsupervised access to children under sixteen years of age or developmentally disabled persons or vulnerable adults during the course of his or her employment or involvement with the business or organization;

(b) Any prospective volunteer who will have regularly scheduled unsupervised access to children under sixteen years of age, developmentally disabled persons, or vulnerable adults during the course of his or her employment or involvement with the business or organization under circumstances where such access will or may involve groups of (i) five or fewer children under twelve years of age, (ii) three or fewer children between

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twelve and sixteen years of age, (iii) developmentally disabled persons, or (iv) vulnerable adults;

(c) Any prospective adoptive parent, as defined in RCW 26.33.020; or

(d) Any prospective custodian in a nonparental custody proceeding under chapter 26.10 RCW.

(2) "Business or organization" means a person, business, or organization licensed in this state, any agency of the state, or other governmental entity, that educates, trains, treats, supervises, houses, or provides recreation to developmentally disabled persons, vulnerable adults, or children under sixteen years of age, or that provides child day care, early learning, or early learning childhood education services, including but not limited to public housing authorities, school districts, and educational service districts.

(3) "Civil adjudication proceeding" is a judicial or administrative adjudicative proceeding that results in a finding of, or upholds an agency finding of, domestic violence, abuse, sexual abuse, neglect, abandonment, violation of a professional licensing standard regarding a child or vulnerable adult, or exploitation or financial exploitation of a child or vulnerable adult under any provision of law, including but not limited to chapter 13.34, 26.44, or 74.34 RCW, or rules adopted under chapters 18.51 and 74.42 RCW. "Civil adjudication proceeding" also includes judicial or administrative ~~((orders))~~ findings that become final due to the failure of the alleged perpetrator to timely exercise a legal right ((afforded to him or her)) to administratively challenge such findings ((made by the department of social and health services or the department of health under chapter 13.34, 26.44, or 74.34 RCW, or rules adopted under chapters 18.51 and 74.42 RCW)).

(4) "Conviction record" means "conviction record" information as defined in RCW 10.97.030 and 10.97.050 relating to a crime committed by either an adult or a juvenile. It does not include a conviction for an offense that has been the subject of an expungement, pardon, annulment, certificate of rehabilitation, or other equivalent procedure based on a finding of the rehabilitation of the person convicted, or a conviction that has been the subject of a pardon, annulment, or other equivalent procedure based on a finding of innocence. It does include convictions for offenses for which the defendant received a deferred or suspended sentence, unless the record has been expunged according to law.

(5) "Crime against children or other persons" means a conviction of any of the following offenses: Aggravated murder; first or second degree murder; first or second degree kidnaping; first, second, or third degree assault; first, second, or third degree assault of a child; first, second, or third degree rape; first, second, or third degree rape of a child; first or second degree robbery; first degree arson; first degree burglary; first or second degree manslaughter; first or second degree extortion; indecent liberties; incest; vehicular homicide; first degree promoting prostitution; communication with a minor; unlawful imprisonment; simple assault; sexual exploitation of minors; first or second degree criminal mistreatment; endangerment with a controlled substance; child abuse or neglect as defined in RCW 26.44.020; first or second degree custodial interference; first or second degree custodial sexual misconduct; malicious harassment; first, second, or third degree child molestation; first or second degree sexual misconduct with a minor; patronizing a juvenile prostitute; child abandonment; promoting pornography; selling or distributing erotic material to a minor; custodial assault; violation of child abuse restraining order; child buying or selling; prostitution; felony indecent exposure; criminal abandonment; or any of these crimes as they may be renamed in the future.

(6) "Crimes relating to drugs" means a conviction of a crime to manufacture, delivery, or possession with intent to manufacture or deliver a controlled substance.

(7) "Crimes relating to financial exploitation" means a conviction for first, second, or third degree extortion; first, second, or third degree theft; first or second degree robbery; forgery; or any of these crimes as they may be renamed in the future.

(8) "Unsupervised" means not in the presence of:

(a) Another employee or volunteer from the same business or organization as the applicant; or

(b) Any relative or guardian of any of the children or developmentally disabled persons or vulnerable adults to which the applicant has access during the course of his or her employment or involvement with the business or organization.

(9) "Vulnerable adult" means "vulnerable adult" as defined in chapter 74.34 RCW, except that for the purposes of requesting and receiving background checks pursuant to RCW 43.43.832, it shall also include adults of any age who lack the functional, mental, or physical ability to care for themselves.

(10) "Financial exploitation" means "financial exploitation" as defined in RCW 74.34.020.

(11) "Agency" means any person, firm, partnership, association, corporation, or facility which receives, provides services to, houses or otherwise cares for vulnerable adults, juveniles, or children, or which provides child day care, early learning, or early childhood education services.

Sec. 10. RCW 43.43.832 and 2006 c 263 s 826 are each amended to read as follows:

(1) The legislature finds that businesses and organizations providing services to children, developmentally disabled persons, and vulnerable adults need adequate information to determine which employees or licensees to hire or engage. The legislature further finds that many developmentally disabled individuals and vulnerable adults desire to hire their own employees directly and also need adequate information to determine which employees or licensees to hire or engage. Therefore, the Washington state patrol identification and criminal history section shall disclose, upon the request of a business or organization as defined in RCW 43.43.830, a developmentally disabled person, or a vulnerable adult as defined in RCW 43.43.830 or his or her guardian, an applicant's conviction record ((for convictions)) as defined in chapter 10.97 RCW.

(2) The legislature also finds that the Washington professional educator standards board may request of the Washington state patrol criminal identification system information regarding a certificate applicant's conviction record ((for convictions)) under subsection (1) of this section.

(3) The legislature also finds that law enforcement agencies, the office of the attorney general, prosecuting authorities, and the department of social and health services may request this same information to aid in the investigation and prosecution of child, developmentally disabled person, and vulnerable adult abuse cases and to protect children and adults from further incidents of abuse.

(4) The legislature further finds that the secretary of the department of social and health services must establish rules and set standards to require specific action when considering the information listed in subsection (1) of this section, and when considering additional information including but not limited to civil adjudication proceedings as defined in RCW 43.43.830 and any out-of-state equivalent, in the following circumstances:

(a) When considering persons for state employment in positions directly responsible for the supervision, care, or treatment of children, vulnerable adults, or individuals with mental illness or developmental disabilities;

(b) When considering persons for state positions involving unsupervised access to vulnerable adults to conduct comprehensive assessments, financial eligibility determinations, licensing and certification activities, investigations, surveys, or case management; or for state positions otherwise required by federal law to meet employment standards;

(c) When licensing agencies or facilities with individuals in positions directly responsible for the care, supervision, or treatment of children, developmentally disabled persons, or vulnerable adults, including but not limited to agencies or facilities licensed under chapter 74.15 or 18.51 RCW;

(d) When contracting with individuals or businesses or organizations for the care, supervision, case management, or treatment of children, developmentally disabled persons, or vulnerable adults, including but not limited to services contracted for under chapter 18.20, 18.48, 70.127, 70.128, 72.36, or 74.39A RCW or Title 71A RCW;

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(e) When individual providers are paid by the state or providers are paid by home care agencies to provide in-home services involving unsupervised access to persons with physical, mental, or developmental disabilities or mental illness, or to vulnerable adults as defined in chapter 74.34 RCW, including but not limited to services provided under chapter 74.39 or 74.39A RCW.

(5) The director of the department of early learning shall investigate the conviction records, pending charges, and other information including civil adjudication proceeding records of current employees and of any person actively being considered for any position with the department who will or may have unsupervised access to children, or for state positions otherwise required by federal law to meet employment standards. "Considered for any position" includes decisions about (a) initial hiring, layoffs, reallocations, transfers, promotions, or demotions, or (b) other decisions that result in an individual being in a position that will or may have unsupervised access to children as an employee, an intern, or a volunteer.

(6) The director of the department of early learning shall adopt rules and investigate conviction records, pending charges, and other information including civil adjudication proceeding records, in the following circumstances:

(a) When licensing or certifying agencies with individuals in positions that will or may have unsupervised access to children who are in child day care, in early learning programs, or receiving early childhood education services, including but not limited to licensees, agency staff, interns, volunteers, contracted providers, and persons living on the premises who are sixteen years of age or older;

(b) When authorizing individuals who will or may have unsupervised access to children who are in child day care, in early learning programs, or receiving early childhood learning education services in licensed or certified agencies, including but not limited to licensees, agency staff, interns, volunteers, contracted providers, and persons living on the premises who are sixteen years of age or older;

(c) When contracting with any business or organization for activities that will or may have unsupervised access to children who are in child day care, in early learning programs, or receiving early childhood learning education services;

(d) When establishing the eligibility criteria for individual providers to receive state paid subsidies to provide child day care or early learning services that will or may involve unsupervised access to children.

(7) Whenever a state conviction record check is required by state law, persons may be employed or engaged as volunteers or independent contractors on a conditional basis pending completion of the state background investigation. Whenever a national criminal record check through the federal bureau of investigation is required by state law, a person may be employed or engaged as a volunteer or independent contractor on a conditional basis pending completion of the national check. The Washington personnel resources board shall adopt rules to accomplish the purposes of this subsection as it applies to state employees.

~~((6))~~ (8)(a) For purposes of facilitating timely access to criminal background information and to reasonably minimize the number of requests made under this section, recognizing that certain health care providers change employment frequently, health care facilities may, upon request from another health care facility, share copies of completed criminal background inquiry information.

(b) Completed criminal background inquiry information may be shared by a willing health care facility only if the following conditions are satisfied: The licensed health care facility sharing the criminal background inquiry information is reasonably known to be the person's most recent employer, no more than twelve months has elapsed from the date the person was last employed at a licensed health care facility to the date of their current employment application, and the criminal background information is no more than two years old.

(c) If criminal background inquiry information is shared, the health care facility employing the subject of the inquiry must require the applicant to sign a disclosure statement indicating

that there has been no conviction or finding as described in RCW 43.43.842 since the completion date of the most recent criminal background inquiry.

(d) Any health care facility that knows or has reason to believe that an applicant has or may have a disqualifying conviction or finding as described in RCW 43.43.842, subsequent to the completion date of their most recent criminal background inquiry, shall be prohibited from relying on the applicant's previous employer's criminal background inquiry information. A new criminal background inquiry shall be requested pursuant to RCW 43.43.830 through 43.43.842.

(e) Health care facilities that share criminal background inquiry information shall be immune from any claim of defamation, invasion of privacy, negligence, or any other claim in connection with any dissemination of this information in accordance with this subsection.

(f) Health care facilities shall transmit and receive the criminal background inquiry information in a manner that reasonably protects the subject's rights to privacy and confidentiality.

(g) For the purposes of this subsection, "health care facility" means a nursing home licensed under chapter 18.51 RCW, a boarding home licensed under chapter 18.20 RCW, or an adult family home licensed under chapter 70.128 RCW.

~~((7)) If a federal bureau of investigation check is required in addition to the state background check by the department of social and health services, an applicant who is not disqualified based on the results of the state background check shall be eligible for a one hundred twenty day provisional approval to hire, pending the outcome of the federal bureau of investigation check. The department may extend the provisional approval until receipt of the federal bureau of investigation check. If the federal bureau of investigation check disqualifies an applicant, the department shall notify the requestor that the provisional approval to hire is withdrawn and the applicant may be terminated.))~~

NEW SECTION. Sec. 11. If specific funding for the purposes of sections 6 and 7 of this act, referencing sections 6 and 7 of this act by bill or chapter number and section number, is not provided by June 30, 2007, in the omnibus appropriations act, sections 6 and 7 of this act are null and void."

Correct the title.
and the same are herewith transmitted.

RICHARD NAFZIGER, Chief Clerk

MOTION

Senator Hargrove moved that the Senate concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 5774.

Senator Hargrove spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Hargrove that the Senate concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 5774.

The motion by Senator Hargrove carried and the Senate concurred in the House amendment(s) to Engrossed Substitute Senate Bill No. 5774 by voice vote.

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 5774, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 5774, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Benton, Berkey, Brandland, Brown, Carrell, Clements, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, Morton,

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Murray, Oemig, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Tom, Weinstein and Zarelli - 49

ENGROSSED SUBSTITUTE SENATE BILL NO. 5774, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

April 6, 2007

MR. PRESIDENT:

The House has passed ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 5828, with the following amendment: 5828-S2.E AMH ELCS H3102.3

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. The legislature finds that education is the single most effective investment that can be made in children, the state, the economy, and the future. A well-educated citizenry is essential both for the preservation of democracy and for enhancing the state's ability to compete in the knowledge-based global economy.

As recommended by Washington learns, the legislature declares that the overarching goal for education in the state is to have a world-class, learner-focused, seamless education system that educates more Washingtonians to the highest levels of educational attainment.

Sec. 2. RCW 43.215.010 and 2006 c 265 s 102 are each amended to read as follows:

The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Agency" means any person, firm, partnership, association, corporation, or facility that provides child care and early learning services outside a child's own home and includes the following irrespective of whether there is compensation to the agency:

(a) "Child day care center" means an agency that regularly provides child day care and early learning services for a group of children for periods of less than twenty-four hours;

(b) "Early learning" includes but is not limited to programs and services for child care; state, federal, private, and nonprofit preschool; child care subsidies; child care resource and referral; parental education and support; and training and professional development for early learning professionals;

(c) "Family day care provider" means a child day care provider who regularly provides child day care and early learning services for not more than twelve children in the provider's home in the family living quarters;

(d) "Nongovernmental private-public partnership" means an entity registered as a nonprofit corporation in Washington state with a primary focus on early learning, school readiness, and parental support, and an ability to raise a minimum of five million dollars in contributions;

(e) "Service provider" means the entity that operates a community facility.

(2) "Agency" does not include the following:

(a) Persons related to the child in the following ways:

(i) Any blood relative, including those of half-blood, and including first cousins, nephews or nieces, and persons of preceding generations as denoted by prefixes of grand, great, or great-great;

(ii) Stepfather, stepmother, stepbrother, and stepsister;

(iii) A person who legally adopts a child or the child's parent as well as the natural and other legally adopted children of such persons, and other relatives of the adoptive parents in accordance with state law; or

(iv) Spouses of any persons named in (i), (ii), or (iii) of this subsection (2)(a), even after the marriage is terminated;

(b) Persons who are legal guardians of the child;

(c) Persons who care for a neighbor's or friend's child or children, with or without compensation, where the person providing care for periods of less than twenty-four hours does not conduct such activity on an ongoing, regularly scheduled basis for the purpose of engaging in business, which includes, but is not limited to, advertising such care;

(d) Parents on a mutually cooperative basis exchange care of one another's children;

(e) Nursery schools or kindergartens that are engaged primarily in educational work with preschool children and in which no child is enrolled on a regular basis for more than four hours per day;

(f) Schools, including boarding schools, that are engaged primarily in education, operate on a definite school year schedule, follow a stated academic curriculum, accept only school-age children, and do not accept custody of children;

(g) Seasonal camps of three months' or less duration engaged primarily in recreational or educational activities;

(h) Facilities providing care to children for periods of less than twenty-four hours whose parents remain on the premises to participate in activities other than employment;

(i) Any agency having been in operation in this state ten years before June 8, 1967, and not seeking or accepting moneys or assistance from any state or federal agency, and is supported in part by an endowment or trust fund;

(j) An agency operated by any unit of local, state, or federal government or an agency, located within the boundaries of a federally recognized Indian reservation, licensed by the Indian tribe;

(k) An agency located on a federal military reservation, except where the military authorities request that such agency be subject to the licensing requirements of this chapter;

(l) An agency that offers early learning and support services, such as parent education, and does not provide child care services on a regular basis.

(3) "Department" means the department of early learning.

(4) "Director" means the director of the department.

(5) "Enforcement action" means denial, suspension, revocation, modification, or nonrenewal of a license pursuant to RCW 43.215.300(1) or assessment of civil monetary penalties pursuant to RCW 43.215.300(3).

(6) "Probationary license" means a license issued as a disciplinary measure to an agency that has previously been issued a full license but is out of compliance with licensing standards.

(7) "Requirement" means any rule, regulation, or standard of care to be maintained by an agency.

NEW SECTION. Sec. 3. A new section is added to chapter 43.215 RCW to read as follows:

EARLY LEARNING ADVISORY COUNCIL. (1) The early learning advisory council is established to advise the department on statewide early learning community needs and progress.

(2) The council shall work in conjunction with the department to develop a statewide early learning plan that crosses systems and sectors to promote alignment of private and public sector actions, objectives, and resources, and to ensure school readiness.

(3) The council shall include diverse, statewide representation from public, nonprofit, and for-profit entities. Its membership shall reflect regional, racial, and cultural diversity to adequately represent the needs of all children and families in the state.

(4) Council members shall serve two-year terms. However, to stagger the terms of the council, the initial appointments for twelve of the members shall be for one year. Once the initial one-year to two-year terms expire, all subsequent terms shall be for two years, with the terms expiring on June 30th of the applicable year. The terms shall be staggered in such a way that, where possible, the terms of members representing a specific group do not expire simultaneously.

(5) The council shall consist of not more than twenty-five members, as follows:

(a) The governor shall appoint at least one representative from each of the following: The department, the office of

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financial management, the department of social and health services, the department of health, the higher education coordinating board, and the state board for community and technical colleges;

(b) One representative from the office of the superintendent of public instruction, to be appointed by the superintendent of public instruction;

(c) The governor shall appoint at least seven leaders in early childhood education, with at least one representative with experience or expertise in each of the following areas: Children with disabilities, the K-12 system, family day care providers, and child care centers;

(d) Two members of the house of representatives, one from each caucus, and two members of the senate, one from each caucus, to be appointed by the speaker of the house of representatives and the president of the senate, respectively;

(e) Two parents, one of whom serves on the department's parent advisory council, to be appointed by the governor;

(f) Two representatives of the private-public partnership created in RCW 43.215.070, to be appointed by the partnership board;

(g) One representative designated by sovereign tribal governments; and

(h) One representative from the Washington federation of independent schools.

(6) The council shall be cochaired by one representative of a state agency and one nongovernmental member, to be elected by the council for two-year terms.

(7) Each member of the board shall be compensated in accordance with RCW 43.03.240 and reimbursed for travel expenses incurred in carrying out the duties of the board in accordance with RCW 43.03.050 and 43.03.060.

(8) The department shall provide staff support to the council.

NEW SECTION. Sec. 4. A new section is added to chapter 43.215 RCW to read as follows:

VOLUNTARY QUALITY RATING AND IMPROVEMENT SYSTEM. Subject to the availability of amounts appropriated for this specific purpose, the department, in collaboration with community and statewide partners, shall implement a voluntary quality rating and improvement system applicable to licensed or certified child care centers and homes and early education programs. The purpose of the voluntary quality rating and improvement system is to give parents clear and easily accessible information about the quality of child care and early education programs, support improvement in early learning programs throughout the state, increase the readiness of children for school, and close the disparity in access to quality care. Before final implementation of the voluntary quality rating and improvement system, the department shall report to the appropriate policy and fiscal committees of the legislature. Nothing in this section changes the department's responsibility to collectively bargain over mandatory subjects.

Sec. 5. RCW 43.215.020 and 2006 c 265 s 103 are each amended to read as follows:

(1) The department of early learning is created as an executive branch agency. The department is vested with all powers and duties transferred to it under this chapter and such other powers and duties as may be authorized by law.

(2) The primary duties of the department are to implement state early learning policy and to coordinate, consolidate, and integrate child care and early learning programs in order to administer programs and funding as efficiently as possible. The department's duties include, but are not limited to, the following:

(a) To support both public and private sectors toward a comprehensive and collaborative system of early learning that serves parents, children, and providers and to encourage best practices in child care and early learning programs;

(b) To ~~((improve parent education and support))~~ make early learning resources available to parents and caregivers;

(c) To carry out activities ~~((to improve))~~, including providing clear and easily accessible information about quality and improving the quality of early learning opportunities for young children ~~((including activities))~~, in cooperation with the nongovernmental private-public partnership;

(d) To administer child care and early learning programs;

(e) To standardize internal financial audits, oversight visits, performance benchmarks, and licensing criteria, so that programs can function in an integrated fashion;

(f) To ~~((assist in))~~ support the implementation of the nongovernmental private-public partnership and cooperate with that partnership in pursuing its goals including providing data and support necessary for the successful work of the partnership;

(g) To work cooperatively and in coordination with the early learning council; ~~((and))~~

(h) To collaborate with the K-12 school system at the state and local levels to ensure appropriate connections and smooth transitions between early learning and K-12 programs; and

(i) Upon the development of an early learning information system, to make available to parents timely inspection and licensing action information through the internet and other means.

(3) The department's programs shall be designed in a way that respects and preserves the ability of parents and legal guardians to direct the education, development, and upbringing of their children. The department shall include parents and legal guardians in the development of policies and program decisions affecting their children.

NEW SECTION. Sec. 6. A new section is added to chapter 43.215 RCW to read as follows:

DEPARTMENT'S PARTNERSHIP RESPONSIBILITIES.

(1) In order to meet its partnership responsibilities, the department shall:

(a) Work collaboratively with the nongovernmental private-public partnership; and

(b) Actively seek public and private money for distribution as grants to the nongovernmental private-public partnership.

(2) In order to meet its partnership responsibilities, the nongovernmental private-public partnership shall:

(a) Work with and complement existing statewide efforts by enhancing parent resources and support, child care, preschool, and other early learning environments;

(b) Accept and expend funds to be used for quality improvement initiatives, including but not limited to parent resources and support, and support the alignment of existing funding streams and coordination of efforts across sectors;

(c) In conjunction with the department, provide leadership to early learning private-public partnerships forming in communities across the state. These local partnerships shall be encouraged to seek local funding and develop strategies to improve coordination and exchange information between the community, early care and education programs, and the K-12 system; and

(d) Assist the statewide movement to high quality early learning and the support of parents as a child's first and best teacher.

NEW SECTION. Sec. 7. A new section is added to chapter 43.215 RCW to read as follows:

RULES REVIEW. In conjunction with child care providers and other early learning leaders, the department shall review and revise child care provider rules in order to emphasize the need for mutual respect among parents, providers, and state staff who enforce rules. Revised rules shall clearly focus on keeping children safe and improving early learning outcomes for children. The department shall develop a plan by July 2007 that outlines the process and timelines to complete the rules review. Nothing in this section changes the department's responsibility to collectively bargain over mandatory subjects.

NEW SECTION. Sec. 8. Captions used in this act are not any part of the law."

and the same are herewith transmitted.

RICHARD NAFZIGER, Chief Clerk

MOTION

Senator Kauffman moved that the Senate concur in the House amendment(s) to Engrossed Second Substitute Senate Bill No. 5828.

Senator Kauffman spoke in favor of the motion.

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The President declared the question before the Senate to be the motion by Senator Kauffman that the Senate concur in the House amendment(s) to Engrossed Second Substitute Senate Bill No. 5828.

The motion by Senator Kauffman carried and the Senate concurred in the House amendment(s) to Engrossed Second Substitute Senate Bill No. 5828 by voice vote.

The President declared the question before the Senate to be the final passage of Engrossed Second Substitute Senate Bill No. 5828, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Second Substitute Senate Bill No. 5828, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Benton, Berkey, Brandland, Brown, Carrell, Clements, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, Morton, Murray, Oemig, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Tom, Weinstein and Zarelli - 49

ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 5828, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

April 5, 2007

MR. PRESIDENT:

The House has passed ENGROSSED SUBSTITUTE SENATE BILL NO. 5836, with the following amendment: 5836-S.E AMH LG H3248.1

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 35.13.270 and 2001 c 299 s 2 are each amended to read as follows:

(1) Whenever any territory is annexed to a city or town which is part of a road district of the county and road district taxes have been levied but not collected on any property within the annexed territory, the same shall when collected by the county treasurer be paid to the city or town and by the city or town placed in the city or town street fund; except that road district taxes that are delinquent before the date of annexation shall be paid to the county and placed in the county road fund. (~~This section shall~~)

(2) When territory that is part of a fire district is annexed to a city or town, the following apply:

(a) Fire district taxes on annexed property that were levied, but not collected, and were not delinquent at the time of the annexation shall, when collected, be paid to the annexing city or town at times required by the county, but no less frequently than by July 10th for collections through June 30th and January 10th for collections through December 31st following the annexation; and

(b) Fire district taxes on annexed property that were levied, but not collected, and were delinquent at the time of the annexation and the pro rata share of the current year levy budgeted for general obligation debt, when collected, shall be paid to the fire district.

(3) When territory that is part of a library district is annexed to a city or town, the following apply:

(a) Library district taxes on annexed property that were levied, but not collected, and were not delinquent at the time of the annexation shall, when collected, be paid to the annexing city or town at times required by the county, but no less

frequently than by July 10th for collections through June 30th and January 10th for collections through December 31st following the annexation; and

(b) Library district taxes on annexed property that were levied, but not collected, and were delinquent at the time of the annexation and the pro rata share of the current year levy budgeted for general obligation debt, when collected, shall be paid to the library district.

(4) Subsections (1) through (3) of this section do not apply to any special assessments due in behalf of such property.

(5) If a city or town annexes property within a fire district or library district while any general obligation bond secured by the taxing authority of the district is outstanding, the bonded indebtedness of the fire district or library district remains an obligation of the taxable property annexed as if the annexation had not occurred.

(6) The city or town is required to provide notification, by certified mail, that includes a list of annexed parcel numbers, to the county treasurer and assessor, and to the fire district and library district, as appropriate, at least thirty days before the effective date of the annexation. The county treasurer is only required to remit to the city or town those road taxes, fire district taxes, and library district taxes collected thirty days or more after receipt of the notification.

(7)(a) In counties that do not have a boundary review board, the city or town shall provide notification to the fire district or library district of the jurisdiction's resolution approving the annexation. The notification required under this subsection must:

(i) Be made by certified mail within seven days of the resolution approving the annexation; and

(ii) Include a description of the annexed area.

(b) In counties that have a boundary review board, the city or town shall provide notification of the proposed annexation to the fire district or library district simultaneously when notice of the proposed annexation is provided by the jurisdiction to the boundary review board under RCW 36.93.090.

(8) The provisions of this section regarding (a) the transfer of fire and library district property taxes and (b) city and town notifications to fire and library districts do not apply if the city or town has been annexed to and is within the fire or library district when the city or town approves a resolution to annex unincorporated county territory.

Sec. 2. RCW 35A.14.801 and 2001 c 299 s 3 are each amended to read as follows:

(1) Whenever any territory is annexed to a code city which is part of a road district of the county and road district taxes have been levied but not collected on any property within the annexed territory, the same shall when collected by the county treasurer be paid to the code city and by the city placed in the city street fund; except that road district taxes that are delinquent before the date of annexation shall be paid to the county and placed in the county road fund. (~~This section shall~~)

(2) When territory that is part of a fire district is annexed to a code city, the following apply:

(a) Fire district taxes on annexed property that were levied, but not collected, and were not delinquent at the time of the annexation shall, when collected, be paid to the annexing code city at times required by the county, but no less frequently than by July 10th for collections through June 30th and January 10th for collections through December 31st following the annexation; and

(b) Fire district taxes on annexed property that were levied, but not collected, and were delinquent at the time of the annexation and the pro rata share of the current year levy budgeted for general obligation debt, when collected, shall be paid to the fire district.

(3) When territory that is part of a library district is annexed to a code city, the following apply:

(a) Library district taxes on annexed property that were levied, but not collected, and were not delinquent at the time of the annexation shall, when collected, be paid to the annexing code city at times required by the county, but no less frequently than by July 10th for collections through June 30th and January

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10th for collections through December 31st following the annexation; and

(b) Library district taxes on annexed property that were levied, but not collected, and were delinquent at the time of the annexation and the pro rata share of the current year levy budgeted for general obligation debt, when collected, shall be paid to the library district.

(4) Subsections (1) through (3) of this section do not apply to any special assessments due in behalf of such property.

(5) If a code city annexes property within a fire district or library district while any general obligation bond secured by the taxing authority of the district is outstanding, the bonded indebtedness of the fire district or library district remains an obligation of the taxable property annexed as if the annexation had not occurred.

(6) The code city is required to provide notification, by certified mail, that includes a list of annexed parcel numbers, to the county treasurer and assessor, and to the fire district and library district, as appropriate, at least thirty days before the effective date of the annexation. The county treasurer is only required to remit to the code city those road taxes, fire district taxes, and library district taxes collected thirty or more days after receipt of the notification.

(7)(a) In counties that do not have a boundary review board, the code city shall provide notification to the fire district or library district of the jurisdiction's resolution approving the annexation. The notification required under this subsection must:

(i) Be made by certified mail within seven days of the resolution approving the annexation; and

(ii) Include a description of the annexed area.

(b) In counties that have a boundary review board, the code city shall provide notification of the proposed annexation to the fire district or library district simultaneously when notice of the proposed annexation is provided by the jurisdiction to the boundary review board under RCW 36.93.090.

(8) The provisions of this section regarding (a) the transfer of fire and library district property taxes and (b) code city notifications to fire and library districts do not apply if the code city has been annexed to and is within the fire or library district when the code city approves a resolution to annex unincorporated county territory.

Sec. 3. RCW 84.09.030 and 2004 c 129 s 19 are each amended to read as follows:

Except as follows, the boundaries of counties, cities, and all other taxing districts, for purposes of property taxation and the levy of property taxes, shall be the established official boundaries of such districts existing on the first day of (~~March~~) August of the year in which the property tax levy is made.

The official boundaries of a newly incorporated taxing district shall be established at a different date in the year in which the incorporation occurred as follows:

(1) Boundaries for a newly incorporated city shall be established on the last day of March of the year in which the initial property tax levy is made, and the boundaries of a road district, library district, or fire protection district or districts, that include any portion of the area that was incorporated within its boundaries shall be altered as of this date to exclude this area, if the budget for the newly incorporated city is filed pursuant to RCW 84.52.020 and the levy request of the newly incorporated city is made pursuant to RCW 84.52.070. Whenever a proposed city incorporation is on the March special election ballot, the county auditor shall submit the legal description of the proposed city to the department of revenue on or before the first day of March;

(2) Boundaries for a newly incorporated port district or regional fire protection service authority shall be established on the first day of October if the boundaries of the newly incorporated port district or regional fire protection service authority are coterminous with the boundaries of another taxing district or districts, as they existed on the first day of March of that year;

(3) Boundaries of any other newly incorporated taxing district shall be established on the first day of June of the year in which the property tax levy is made if the taxing district has boundaries coterminous with the boundaries of another taxing district, as they existed on the first day of March of that year;

(4) Boundaries for a newly incorporated water-sewer district shall be established on the fifteenth of June of the year in which the proposition under RCW 57.04.050 authorizing a water district excess levy is approved.

The boundaries of a taxing district shall be established on the first day of June if territory has been added to, or removed from, the taxing district after the first day of March of that year with boundaries coterminous with the boundaries of another taxing district as they existed on the first day of March of that year. However, the boundaries of a road district, library district, or fire protection district or districts, that include any portion of the area that was annexed to a city or town within its boundaries shall be altered as of this date to exclude this area. In any case where any instrument setting forth the official boundaries of any newly established taxing district, or setting forth any change in such boundaries, is required by law to be filed in the office of the county auditor or other county official, said instrument shall be filed in triplicate. The officer with whom such instrument is filed shall transmit two copies to the county assessor.

No property tax levy shall be made for any taxing district whose boundaries are not established as of the dates provided in this section."

Correct the title.
and the same are herewith transmitted.

RICHARD NAFZIGER, Chief Clerk

MOTION

Senator Fairley moved that the Senate concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 5836.

Senator Fairley spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Fairley that the Senate concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 5836.

The motion by Senator Fairley carried and the Senate concurred in the House amendment(s) to Engrossed Substitute Senate Bill No. 5836 by voice vote.

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 5836, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 5836, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Benton, Berkeley, Brandland, Brown, Carrell, Clements, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, Morton, Murray, Oemig, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Tom, Weinstein and Zarelli - 49

ENGROSSED SUBSTITUTE SENATE BILL NO. 5836, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

April 6, 2007

MR. PRESIDENT:

The House has passed ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 5859, with the following amendment: 5859-S2.E AMH CL H3197.1

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Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 66.24.375 and 1997 c 321 s 61 are each amended to read as follows:

"Society or organization" as used in RCW 66.24.380 means a not-for-profit group organized and operated (1) solely for charitable, religious, social, political, educational, civic, fraternal, athletic, or benevolent purposes, or (2) as a local wine industry association registered under section 501(c)(6) of the internal revenue code as it exists on the effective date of this section. No portion of the profits from events sponsored by a not-for-profit group may be paid directly or indirectly to members, officers, directors, or trustees except for services performed for the organization. Any compensation paid to its officers and executives must be only for actual services and at levels comparable to the compensation for like positions within the state. A society or organization which is registered with the secretary of state or the federal internal revenue service as a nonprofit organization (may) shall submit such registration, upon request, as proof that it is a not-for-profit group.

"Sec. 2. RCW 66.28.010 and 2006 c 330 s 28, 2006 c 92 s 1, and 2006 c 43 s 1 are each reenacted and amended to read as follows:

(1)(a) No manufacturer, importer, distributor, or authorized representative, or person financially interested, directly or indirectly, in such business; whether resident or nonresident, shall have any financial interest, direct or indirect, in any licensed retail business, unless the retail business is owned by a corporation in which a manufacturer or importer has no direct stock ownership and there are no interlocking officers and directors, the retail license is held by a corporation that is not owned directly or indirectly by a manufacturer or importer, the sales of liquor are incidental to the primary activity of operating the property as a hotel, alcoholic beverages produced by the manufacturer or importer or their subsidiaries are not sold at the licensed premises, and the board reviews the ownership and proposed method of operation of all involved entities and determines that there will not be an unacceptable level of control or undue influence over the operation or the retail licensee; nor shall any manufacturer, importer, distributor, or authorized representative own any of the property upon which such licensed persons conduct their business; nor shall any such licensed person, under any arrangement whatsoever, conduct his or her business upon property in which any manufacturer, importer, distributor, or authorized representative has any interest unless title to that property is owned by a corporation in which a manufacturer has no direct stock ownership and there are no interlocking officers or directors, the retail license is held by a corporation that is not owned directly or indirectly by the manufacturer, the sales of liquor are incidental to the primary activity of operating the property either as a hotel or as an amphitheater offering live musical and similar live entertainment activities to the public, alcoholic beverages produced by the manufacturer or any of its subsidiaries are not sold at the licensed premises, and the board reviews the ownership and proposed method of operation of all involved entities and determines that there will not be an unacceptable level of control or undue influence over the operation of the retail licensee. Except as provided in subsection (3) of this section, no manufacturer, importer, distributor, or authorized representative shall advance moneys or moneys' worth to a licensed person under an arrangement, nor shall such licensed person receive, under an arrangement, an advance of moneys or moneys' worth. "Person" as used in this section only shall not include those state or federally chartered banks, state or federally chartered savings and loan associations, state or federally chartered mutual savings banks, or institutional investors which are not controlled directly or indirectly by a manufacturer, importer, distributor, or authorized representative as long as the bank, savings and loan association, or institutional investor does not influence or attempt to influence the purchasing practices of the retailer with respect to alcoholic beverages. Except as otherwise provided in this section, no manufacturer, importer, distributor, or authorized representative shall be eligible to receive or hold a retail license under this title, nor shall such manufacturer,

importer, distributor, or authorized representative sell at retail any liquor as herein defined. A corporation granted an exemption under this subsection may use debt instruments issued in connection with financing construction or operations of its facilities.

(b) Nothing in this section shall prohibit a licensed domestic brewery or microbrewery from being licensed as a retailer pursuant to chapter 66.24 RCW for the purpose of selling beer or wine at retail on the brewery premises and at one additional off-site retail only location and nothing in this section shall prohibit a domestic winery from being licensed as a retailer pursuant to chapter 66.24 RCW for the purpose of selling beer or wine at retail on the winery premises. Such beer and wine so sold at retail shall be subject to the taxes imposed by RCW 66.24.290 and 66.24.210 and to reporting and bonding requirements as prescribed by regulations adopted by the board pursuant to chapter 34.05 RCW, and beer and wine that is not produced by the brewery or winery shall be purchased from a licensed beer or wine distributor.

(c) Nothing in this section shall prohibit a licensed distiller, domestic brewery, microbrewery, domestic winery, or a lessee of a licensed domestic brewer, microbrewery, or domestic winery, from being licensed as a spirits, beer, and wine restaurant pursuant to chapter 66.24 RCW for the purpose of selling liquor at a spirits, beer, and wine restaurant premises on the property on which the primary manufacturing facility of the licensed distiller, domestic brewer, microbrewery, or domestic winery is located or on contiguous property owned or leased by the licensed distiller, domestic brewer, microbrewery, or domestic winery as prescribed by rules adopted by the board pursuant to chapter 34.05 RCW. This section does not prohibit a brewery or microbrewery holding a spirits, beer, and wine restaurant license or a beer and/or wine license under chapter 66.24 RCW operated on the premises of the brewery or microbrewery from holding a second retail only license at a location separate from the premises of the brewery or microbrewery.

(d) Nothing in this section prohibits retail licensees with a caterer's endorsement issued under RCW 66.24.320 or 66.24.420 from operating on a domestic winery premises.

(e) Nothing in this section prohibits an organization qualifying under RCW 66.24.375 formed for the purpose of constructing and operating a facility to promote Washington wines from holding retail licenses on the facility property or leasing all or any portion of such facility property to a retail licensee on the facility property if the members of the board of directors or officers of the board for the organization include officers, directors, owners, or employees of a licensed domestic winery. Financing for the construction of the facility must include both public and private money.

(f) Nothing in this section prohibits a bona fide charitable nonprofit society or association registered (as a) under section 501(c)(3) (under) of the internal revenue code, or a local wine industry association registered under section 501(c)(6) of the internal revenue code as it exists on the effective date of this section, and having an officer, director, owner, or employee of a licensed domestic winery or a wine certificate of approval holder on its board of directors from holding a special occasion license under RCW 66.24.380.

(g) Nothing in this section prohibits domestic wineries and retailers licensed under chapter 66.24 RCW from jointly producing brochures and materials promoting tourism in Washington state which contain information regarding retail licensees, domestic wineries, and their products.

(h) Nothing in this section prohibits domestic wineries and retail licensees from identifying the wineries on private labels authorized under RCW 66.24.400, 66.24.425, and 66.24.450.

(i) Until July 1, 2007, nothing in this section prohibits a nonprofit statewide organization of microbreweries formed for the purpose of promoting Washington's craft beer industry as a trade association registered as a 501(c) with the internal revenue service from holding a special occasion license to conduct up to six beer festivals.

(2) Financial interest, direct or indirect, as used in this section, shall include any interest, whether by stock ownership,

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mortgage, lien, or through interlocking directors, or otherwise. Pursuant to rules promulgated by the board in accordance with chapter 34.05 RCW manufacturers, distributors, and importers may perform, and retailers may accept the service of building, rotating and restocking case displays and stock room inventories; rotating and rearranging can and bottle displays of their own products; provide point of sale material and brand signs; price case goods of their own brands; and perform such similar normal business services as the board may by regulation prescribe.

(3)(a) This section does not prohibit a manufacturer, importer, or distributor from providing services to a special occasion licensee for: (i) Installation of draft beer dispensing equipment or advertising, (ii) advertising, pouring, or dispensing of beer or wine at a beer or wine tasting exhibition or judging event, or (iii) a special occasion licensee from receiving any such services as may be provided by a manufacturer, importer, or distributor. Nothing in this section shall prohibit a retail licensee, or any person financially interested, directly or indirectly, in such a retail licensee from having a financial interest, direct or indirect, in a business which provides, for a compensation commensurate in value to the services provided, bottling, canning or other services to a manufacturer, so long as the retail licensee or person interested therein has no direct financial interest in or control of said manufacturer.

(b) A person holding contractual rights to payment from selling a liquor distributor's business and transferring the license shall not be deemed to have a financial interest under this section if the person (i) lacks any ownership in or control of the distributor, (ii) is not employed by the distributor, and (iii) does not influence or attempt to influence liquor purchases by retail liquor licensees from the distributor.

(c) The board shall adopt such rules as are deemed necessary to carry out the purposes and provisions of subsection (3)(a) of this section in accordance with the administrative procedure act, chapter 34.05 RCW.

(4) A license issued under RCW 66.24.395 does not constitute a retail license for the purposes of this section.

(5) A public house license issued under RCW 66.24.580 does not violate the provisions of this section as to a retailer having an interest directly or indirectly in a liquor-licensed manufacturer.

Sec. 3. RCW 66.08.150 and 2003 c 320 s 1 are each amended to read as follows:

The action, order, or decision of the board as to any denial of an application for the reissuance of a permit or license or as to any revocation, suspension, or modification of any permit or license shall be an adjudicative proceeding and subject to the applicable provisions of chapter 34.05 RCW.

(1) An opportunity for a hearing may be provided an applicant for the reissuance of a permit or license prior to the disposition of the application, and if no such opportunity for a prior hearing is provided then an opportunity for a hearing to reconsider the application must be provided the applicant.

(2) An opportunity for a hearing must be provided a permittee or licensee prior to a revocation or modification of any permit or license and, except as provided in subsection (4) of this section, prior to the suspension of any permit or license.

(3) No hearing shall be required until demanded by the applicant, permittee, or licensee.

(4) The board may summarily suspend a license or permit for a period of up to one hundred eighty days without a prior hearing if it finds that public health, safety, or welfare imperatively require emergency action, and it incorporates a finding to that effect in its order(~~and~~). Proceedings for revocation or other action must be promptly instituted and determined. An administrative law judge may extend the summary suspension period for up to one calendar year in the event the proceedings for revocation or other action cannot be completed during the initial one hundred eighty day period due to actions by the licensee or permittee. The board's enforcement division shall complete a preliminary staff investigation of the violation before requesting an emergency suspension by the board.

Sec. 4. RCW 66.24.244 and 2006 c 302 s 3 and 2006 c 44 s 2 are each reenacted and amended to read as follows:

(1) There shall be a license for microbreweries; fee to be one hundred dollars for production of less than sixty thousand barrels of malt liquor, including strong beer, per year.

(2) Any microbrewery license under this section may also act as a distributor and/or retailer for beer and strong beer of its own production. Any microbrewery licensed under this section may act as a distributor for beer of its own production. Strong beer may not be sold at a farmers market or under any endorsement which may authorize microbreweries to sell beer at farmers markets. Any microbrewery operating as a distributor and/or retailer under this subsection shall comply with the applicable laws and rules relating to distributors and/or retailers. A microbrewery holding a spirits, beer, and wine restaurant license may sell beer of its own production for off-premises consumption from its restaurant premises in kegs or in a sanitary container brought to the premises by the purchaser or furnished by the licensee and filled at the tap by the licensee at the time of sale.

~~(3) The board may issue a license allowing a microbrewery to operate a spirits, beer, and wine restaurant under RCW 66.24.420.~~

~~(4) The board may issue ((an endorsement to this)) a license allowing for on-premises consumption of beer, including strong beer, wine, or both of other manufacture if purchased from a Washington state-licensed distributor. ((Each endorsement shall cost two hundred dollars per year, or four hundred dollars per year allowing the sale and service of both beer and wine.~~

~~(4))~~ The microbrewer (~~obtaining such endorsement~~) must determine, at the time the (~~endorsement~~) license is issued, whether the licensed premises will be operated (~~either~~) as a tavern with persons under twenty-one years of age not allowed as provided for in RCW 66.24.330, or as a beer and/or wine restaurant as described in RCW 66.24.320.

~~(5) If the microbrewery licensee holds a separate license for a spirits, beer, and wine restaurant or a beer and/or wine restaurant, operated on the brewery premises, the licensee may hold a second retail license for a spirits, beer, and wine restaurant or a beer and/or wine restaurant, at a location separate from the licensed brewery premises.~~

~~(6)(a)~~ A microbrewery licensed under this section may apply to the board for an endorsement to sell bottled beer of its own production at retail for off-premises consumption at a qualifying farmers market. The annual fee for this endorsement is seventy-five dollars.

(b) For each month during which a microbrewery will sell beer at a qualifying farmers market, the microbrewery must provide the board or its designee a list of the dates, times, and locations at which bottled beer may be offered for sale. This list must be received by the board before the microbrewery may offer beer for sale at a qualifying farmers market.

(c) The beer sold at qualifying farmers markets must be produced in Washington.

(d) Each approved location in a qualifying farmers market is deemed to be part of the microbrewery license for the purpose of this title. The approved locations under an endorsement granted under this subsection (~~((5))~~) (6) do not constitute the tasting or sampling privilege of a microbrewery. The microbrewery may not store beer at a farmers market beyond the hours that the microbrewery offers bottled beer for sale. The microbrewery may not act as a distributor from a farmers market location.

(e) Before a microbrewery may sell bottled beer at a qualifying farmers market, the farmers market must apply to the board for authorization for any microbrewery with an endorsement approved under this subsection (~~((5))~~) (6) to sell bottled beer at retail at the farmers market. This application shall include, at a minimum: (i) A map of the farmers market showing all booths, stalls, or other designated locations at which an approved microbrewery may sell bottled beer; and (ii) the name and contact information for the on-site market managers who may be contacted by the board or its designee to verify the locations at which bottled beer may be sold. Before authorizing a qualifying farmers market to allow an approved microbrewery to sell bottled beer at retail at its farmers market location, the

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board shall notify the persons or entities of the application for authorization pursuant to RCW 66.24.010 (8) and (9). An authorization granted under this subsection ~~((5))~~ (6)(e) may be withdrawn by the board for any violation of this title or any rules adopted under this title.

(f) The board may adopt rules establishing the application and approval process under this section and any additional rules necessary to implement this section.

(g) For the purposes of this subsection ~~((5))~~ (6):

(i) "Qualifying farmers market" means an entity that sponsors a regular assembly of vendors at a defined location for the purpose of promoting the sale of agricultural products grown or produced in this state directly to the consumer under conditions that meet the following minimum requirements:

(A) There are at least five participating vendors who are farmers selling their own agricultural products;

(B) The total combined gross annual sales of vendors who are farmers exceeds the total combined gross annual sales of vendors who are processors or resellers;

(C) The total combined gross annual sales of vendors who are farmers, processors, or resellers exceeds the total combined gross annual sales of vendors who are not farmers, processors, or resellers;

(D) The sale of imported items and secondhand items by any vendor is prohibited; and

(E) No vendor is a franchisee.

(ii) "Farmer" means a natural person who sells, with or without processing, agricultural products that he or she raises on land he or she owns or leases in this state or in another state's county that borders this state.

(iii) "Processor" means a natural person who sells processed food that he or she has personally prepared on land he or she owns or leases in this state or in another state's county that borders this state.

(iv) "Reseller" means a natural person who buys agricultural products from a farmer and resells the products directly to the consumer.

Sec. 5. RCW 66.24.244 and 2006 c 44 s 2 are each amended to read as follows:

(1) There shall be a license for microbreweries; fee to be one hundred dollars for production of less than sixty thousand barrels of malt liquor, including strong beer, per year.

(2) Any microbrewery license under this section may also act as a distributor and/or retailer for beer and strong beer of its own production. Strong beer may not be sold at a farmers market or under any endorsement which may authorize microbreweries to sell beer at farmers markets. Any microbrewery operating as a distributor and/or retailer under this subsection shall comply with the applicable laws and rules relating to distributors and/or retailers. A microbrewery holding a spirits, beer, and wine restaurant license may sell beer of its own production for off-premises consumption from its restaurant premises in kegs or in a sanitary container brought to the premises by the purchaser or furnished by the licensee and filled at the tap by the licensee at the time of sale.

(3) The board may issue a license allowing a microbrewery to operate a spirits, beer, and wine restaurant under RCW 66.24.420.

~~(4) The board may issue ~~((an endorsement to this))~~ a license allowing for on-premises consumption of beer, including strong beer, wine, or both of other manufacture if purchased from a Washington state-licensed distributor. ~~((Each endorsement shall cost two hundred dollars per year, or four hundred dollars per year allowing the sale and service of both beer and wine.~~~~

~~(4))~~ The microbrewer ~~((obtaining such endorsement))~~ must determine, at the time the ~~((endorsement))~~ license is issued, whether the licensed premises will be operated ~~((either))~~ as a tavern with persons under twenty-one years of age not allowed as provided for in RCW 66.24.330, or as a beer and/or wine restaurant as described in RCW 66.24.320.

(5) If the microbrewery licensee holds a separate license for a spirits, beer, and wine restaurant or a beer and/or wine restaurant, operated on the brewery premises, the licensee may hold a second retail license for a spirits, beer, and wine

restaurant or a beer and/or wine restaurant, at a location separate from the licensed brewery premises.

~~(6)(a)~~ A microbrewery licensed under this section may apply to the board for an endorsement to sell bottled beer of its own production at retail for off-premises consumption at a qualifying farmers market. The annual fee for this endorsement is seventy-five dollars.

(b) For each month during which a microbrewery will sell beer at a qualifying farmers market, the microbrewery must provide the board or its designee a list of the dates, times, and locations at which bottled beer may be offered for sale. This list must be received by the board before the microbrewery may offer beer for sale at a qualifying farmers market.

(c) The beer sold at qualifying farmers markets must be produced in Washington.

(d) Each approved location in a qualifying farmers market is deemed to be part of the microbrewery license for the purpose of this title. The approved locations under an endorsement granted under this subsection ~~((5))~~ (6) do not constitute the tasting or sampling privilege of a microbrewery. The microbrewery may not store beer at a farmers market beyond the hours that the microbrewery offers bottled beer for sale. The microbrewery may not act as a distributor from a farmers market location.

(e) Before a microbrewery may sell bottled beer at a qualifying farmers market, the farmers market must apply to the board for authorization for any microbrewery with an endorsement approved under this subsection ~~((5))~~ (6) to sell bottled beer at retail at the farmers market. This application shall include, at a minimum: (i) A map of the farmers market showing all booths, stalls, or other designated locations at which an approved microbrewery may sell bottled beer; and (ii) the name and contact information for the on-site market managers who may be contacted by the board or its designee to verify the locations at which bottled beer may be sold. Before authorizing a qualifying farmers market to allow an approved microbrewery to sell bottled beer at retail at its farmers market location, the board shall notify the persons or entities of the application for authorization pursuant to RCW 66.24.010 (8) and (9). An authorization granted under this subsection ~~((5))~~ (6)(e) may be withdrawn by the board for any violation of this title or any rules adopted under this title.

(f) The board may adopt rules establishing the application and approval process under this section and any additional rules necessary to implement this section.

(g) For the purposes of this subsection ~~((5))~~ (6):

(i) "Qualifying farmers market" means an entity that sponsors a regular assembly of vendors at a defined location for the purpose of promoting the sale of agricultural products grown or produced in this state directly to the consumer under conditions that meet the following minimum requirements:

(A) There are at least five participating vendors who are farmers selling their own agricultural products;

(B) The total combined gross annual sales of vendors who are farmers exceeds the total combined gross annual sales of vendors who are processors or resellers;

(C) The total combined gross annual sales of vendors who are farmers, processors, or resellers exceeds the total combined gross annual sales of vendors who are not farmers, processors, or resellers;

(D) The sale of imported items and secondhand items by any vendor is prohibited; and

(E) No vendor is a franchisee.

(ii) "Farmer" means a natural person who sells, with or without processing, agricultural products that he or she raises on land he or she owns or leases in this state or in another state's county that borders this state.

(iii) "Processor" means a natural person who sells processed food that he or she has personally prepared on land he or she owns or leases in this state or in another state's county that borders this state.

(iv) "Reseller" means a natural person who buys agricultural products from a farmer and resells the products directly to the consumer.

Sec. 6. RCW 66.24.240 and 2006 c 302 s 2 and 2006 c 44 s 1 are each reenacted and amended to read as follows:

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(1) There shall be a license for domestic breweries; fee to be two thousand dollars for production of sixty thousand barrels or more of malt liquor per year.

(2) Any domestic brewery, except for a brand owner of malt beverages under RCW 66.04.010(6), licensed under this section may also act as a retailer for beer of its own production. Any domestic brewery licensed under this section may act as a distributor for beer of its own production. Any domestic brewery operating as a distributor and/or retailer under this subsection shall comply with the applicable laws and rules relating to distributors and/or retailers. A domestic brewery holding a spirits, beer, and wine restaurant license may sell beer of its own production for off-premises consumption from its restaurant premises in kegs or in a sanitary container brought to the premises by the purchaser or furnished by the licensee and filled at the tap by the licensee at the time of sale.

(3) A domestic brewery may hold a retail license under this chapter. This retail license is separate from the brewery license. A brewery that holds a spirits, beer, and wine restaurant license or a beer and/or wine restaurant license shall hold the same privileges and endorsements as permitted under RCW 66.24.320 and 66.24.420.

(4) If the brewery licensee holds a separate license for a spirits, beer, and wine restaurant or a beer and/or wine restaurant operated on the brewery premises, the licensee may hold a second retail license for a spirits, beer, and wine restaurant or a beer and/or wine restaurant at a location separate from the brewery premises.

(5) Any domestic brewery licensed under this section may contract-produce beer for a brand owner of malt beverages defined under RCW 66.04.010(6), and this contract-production is not a sale for the purposes of RCW 66.28.170 and 66.28.180.

~~((+))~~ (6)(a) A domestic brewery licensed under this section and qualified for a reduced rate of taxation pursuant to RCW 66.24.290(3)(b) may apply to the board for an endorsement to sell bottled beer of its own production at retail for off-premises consumption at a qualifying farmers market. The annual fee for this endorsement is seventy-five dollars.

(b) For each month during which a domestic brewery will sell beer at a qualifying farmers market, the domestic brewery must provide the board or its designee a list of the dates, times, and locations at which bottled beer may be offered for sale. This list must be received by the board before the domestic brewery may offer beer for sale at a qualifying farmers market.

(c) The beer sold at qualifying farmers markets must be produced in Washington.

(d) Each approved location in a qualifying farmers market is deemed to be part of the domestic brewery license for the purpose of this title. The approved locations under an endorsement granted under this subsection do not include the tasting or sampling privilege of a domestic brewery. The domestic brewery may not store beer at a farmers market beyond the hours that the domestic brewery offers bottled beer for sale. The domestic brewery may not act as a distributor from a farmers market location.

(e) Before a domestic brewery may sell bottled beer at a qualifying farmers market, the farmers market must apply to the board for authorization for any domestic brewery with an endorsement approved under this subsection to sell bottled beer at retail at the farmers market. This application shall include, at a minimum: (i) A map of the farmers market showing all booths, stalls, or other designated locations at which an approved domestic brewery may sell bottled beer; and (ii) the name and contact information for the on-site market managers who may be contacted by the board or its designee to verify the locations at which bottled beer may be sold. Before authorizing a qualifying farmers market to allow an approved domestic brewery to sell bottled beer at retail at its farmers market location, the board shall notify the persons or entities of such application for authorization pursuant to RCW 66.24.010 (8) and (9). An authorization granted under this subsection ~~((+))~~ (6)(e) may be withdrawn by the board for any violation of this title or any rules adopted under this title.

(f) The board may adopt rules establishing the application and approval process under this section and such additional rules as may be necessary to implement this section.

(g) For the purposes of this subsection:

(i) "Qualifying farmers market" means an entity that sponsors a regular assembly of vendors at a defined location for the purpose of promoting the sale of agricultural products grown or produced in this state directly to the consumer under conditions that meet the following minimum requirements:

(A) There are at least five participating vendors who are farmers selling their own agricultural products;

(B) The total combined gross annual sales of vendors who are farmers exceeds the total combined gross annual sales of vendors who are processors or resellers;

(C) The total combined gross annual sales of vendors who are farmers, processors, or resellers exceeds the total combined gross annual sales of vendors who are not farmers, processors, or resellers;

(D) The sale of imported items and secondhand items by any vendor is prohibited; and

(E) No vendor is a franchisee.

(ii) "Farmer" means a natural person who sells, with or without processing, agricultural products that he or she raises on land he or she owns or leases in this state or in another state's county that borders this state.

(iii) "Processor" means a natural person who sells processed food that he or she has personally prepared on land he or she owns or leases in this state or in another state's county that borders this state.

(iv) "Reseller" means a natural person who buys agricultural products from a farmer and resells the products directly to the consumer.

Sec. 7. RCW 66.24.240 and 2006 c 44 s 1 are each amended to read as follows:

(1) There shall be a license for domestic breweries; fee to be two thousand dollars for production of sixty thousand barrels or more of malt liquor per year.

(2) Any domestic brewery, except for a brand owner of malt beverages under RCW 66.04.010(6), licensed under this section may also act as a distributor and/or retailer for beer of its own production. Any domestic brewery operating as a distributor and/or retailer under this subsection shall comply with the applicable laws and rules relating to distributors and/or retailers. A domestic brewery holding a spirits, beer, and wine restaurant license may sell beer of its own production for off-premises consumption from its restaurant premises in kegs or in a sanitary container brought to the premises by the purchaser or furnished by the licensee and filled at the tap by the licensee at the time of sale.

(3) A domestic brewery may hold a retail license under this chapter. This retail license is separate from the brewery license. A brewery that holds a spirits, beer, and wine restaurant license or a beer and/or wine restaurant license shall hold the same privileges and endorsements as permitted under RCW 66.24.320 and 66.24.420.

(4) If the brewery licensee holds a separate license for a spirits, beer, and wine restaurant or a beer and/or wine restaurant operated on the brewery premises, the licensee may hold a second retail license for a spirits, beer, and wine restaurant or a beer and/or wine restaurant at a location separate from the brewery premises.

(5) Any domestic brewery licensed under this section may contract-produce beer for a brand owner of malt beverages defined under RCW 66.04.010(6), and this contract-production is not a sale for the purposes of RCW 66.28.170 and 66.28.180.

~~((+))~~ (6)(a) A domestic brewery licensed under this section and qualified for a reduced rate of taxation pursuant to RCW 66.24.290(3)(b) may apply to the board for an endorsement to sell bottled beer of its own production at retail for off-premises consumption at a qualifying farmers market. The annual fee for this endorsement is seventy-five dollars.

(b) For each month during which a domestic brewery will sell beer at a qualifying farmers market, the domestic brewery must provide the board or its designee a list of the dates, times, and locations at which bottled beer may be offered for sale.

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This list must be received by the board before the domestic brewery may offer beer for sale at a qualifying farmers market.

(c) The beer sold at qualifying farmers markets must be produced in Washington.

(d) Each approved location in a qualifying farmers market is deemed to be part of the domestic brewery license for the purpose of this title. The approved locations under an endorsement granted under this subsection do not include the tasting or sampling privilege of a domestic brewery. The domestic brewery may not store beer at a farmers market beyond the hours that the domestic brewery offers bottled beer for sale. The domestic brewery may not act as a distributor from a farmers market location.

(e) Before a domestic brewery may sell bottled beer at a qualifying farmers market, the farmers market must apply to the board for authorization for any domestic brewery with an endorsement approved under this subsection to sell bottled beer at retail at the farmers market. This application shall include, at a minimum: (i) A map of the farmers market showing all booths, stalls, or other designated locations at which an approved domestic brewery may sell bottled beer; and (ii) the name and contact information for the on-site market managers who may be contacted by the board or its designee to verify the locations at which bottled beer may be sold. Before authorizing a qualifying farmers market to allow an approved domestic brewery to sell bottled beer at retail at its farmers market location, the board shall notify the persons or entities of such application for authorization pursuant to RCW 66.24.010 (8) and (9). An authorization granted under this subsection ((+)) (6)(e) may be withdrawn by the board for any violation of this title or any rules adopted under this title.

(f) The board may adopt rules establishing the application and approval process under this section and such additional rules as may be necessary to implement this section.

(g) For the purposes of this subsection:

(i) "Qualifying farmers market" means an entity that sponsors a regular assembly of vendors at a defined location for the purpose of promoting the sale of agricultural products grown or produced in this state directly to the consumer under conditions that meet the following minimum requirements:

(A) There are at least five participating vendors who are farmers selling their own agricultural products;

(B) The total combined gross annual sales of vendors who are farmers exceeds the total combined gross annual sales of vendors who are processors or resellers;

(C) The total combined gross annual sales of vendors who are farmers, processors, or resellers exceeds the total combined gross annual sales of vendors who are not farmers, processors, or resellers;

(D) The sale of imported items and secondhand items by any vendor is prohibited; and

(E) No vendor is a franchisee.

(ii) "Farmer" means a natural person who sells, with or without processing, agricultural products that he or she raises on land he or she owns or leases in this state or in another state's county that borders this state.

(iii) "Processor" means a natural person who sells processed food that he or she has personally prepared on land he or she owns or leases in this state or in another state's county that borders this state.

(iv) "Reseller" means a natural person who buys agricultural products from a farmer and resells the products directly to the consumer.

Sec. 8. RCW 66.24.420 and 2006 c 101 s 3 and 2006 c 85 s 1 are each reenacted and amended to read as follows:

(1) The spirits, beer, and wine restaurant license shall be issued in accordance with the following schedule of annual fees:

(a) The annual fee for a spirits, beer, and wine restaurant license shall be graduated according to the dedicated dining area and type of service provided as follows:

Less than 50% dedicated dining area	\$2,000
50% or more dedicated dining area	\$1,600
Service bar only	\$1,000

(b) The annual fee for the license when issued to any other spirits, beer, and wine restaurant licensee outside of incorporated cities and towns shall be prorated according to the calendar quarters, or portion thereof, during which the licensee is open for business, except in case of suspension or revocation of the license.

(c) Where the license shall be issued to any corporation, association or person operating a bona fide restaurant in an airport terminal facility providing service to transient passengers with more than one place where liquor is to be dispensed and sold, such license shall be issued upon the payment of the annual fee, which shall be a master license and shall permit such sale within and from one such place. Such license may be extended to additional places on the premises at the discretion of the board and a duplicate license may be issued for each such additional place. The holder of a master license for a restaurant in an airport terminal facility must maintain in a substantial manner at least one place on the premises for preparing, cooking, and serving of complete meals, and such food service shall be available on request in other licensed places on the premises. An additional license fee of twenty-five percent of the annual master license fee shall be required for such duplicate licenses.

(d) Where the license shall be issued to any corporation, association, or person operating dining places at a publicly or privately owned civic or convention center with facilities for sports, entertainment, or conventions, or a combination thereof, with more than one place where liquor is to be dispensed and sold, such license shall be issued upon the payment of the annual fee, which shall be a master license and shall permit such sale within and from one such place. Such license may be extended to additional places on the premises at the discretion of the board and a duplicate license may be issued for each such additional place. The holder of a master license for a dining place at such a publicly or privately owned civic or convention center must maintain in a substantial manner at least one place on the premises for preparing, cooking, and serving of complete meals, and food service shall be available on request in other licensed places on the premises. An additional license fee of ten dollars shall be required for such duplicate licenses.

(e) Where the license shall be issued to any corporation, association or person operating more than one building containing dining places at privately owned facilities which are open to the public and where there is a continuity of ownership of all adjacent property, such license shall be issued upon the payment of an annual fee which shall be a master license and shall permit such sale within and from one such place. Such license may be extended to the additional dining places on the property or, in the case of a spirits, beer, and wine restaurant licensed hotel, property owned or controlled by leasehold interest by that hotel for use as a conference or convention center or banquet facility open to the general public for special events in the same metropolitan area, at the discretion of the board and a duplicate license may be issued for each additional place. The holder of the master license for the dining place shall not offer alcoholic beverages for sale, service, and consumption at the additional place unless food service is available at both the location of the master license and the duplicate license. An additional license fee of twenty dollars shall be required for such duplicate licenses.

(2) The board, so far as in its judgment is reasonably possible, shall confine spirits, beer, and wine restaurant licenses to the business districts of cities and towns and other communities, and not grant such licenses in residential districts, nor within the immediate vicinity of schools, without being limited in the administration of this subsection to any specific distance requirements.

(3) The board shall have discretion to issue spirits, beer, and wine restaurant licenses outside of cities and towns in the state of Washington. The purpose of this subsection is to enable the board, in its discretion, to license in areas outside of cities and towns and other communities, establishments which are operated and maintained primarily for the benefit of tourists, vacationers and travelers, and also golf and country clubs, and common carriers operating dining, club and buffet cars, or boats.

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(4) The total number of spirits, beer, and wine restaurant licenses issued in the state of Washington by the board, not including spirits, beer, and wine private club licenses, shall not in the aggregate at any time exceed one license for each one thousand ~~((four))~~ three hundred ~~((fifty))~~ of population in the state, determined according to the yearly population determination developed by the office of financial management pursuant to RCW 43.62.030.

(5) Notwithstanding the provisions of subsection (4) of this section, the board shall refuse a spirits, beer, and wine restaurant license to any applicant if in the opinion of the board the spirits, beer, and wine restaurant licenses already granted for the particular locality are adequate for the reasonable needs of the community.

(6)(a) The board may issue a caterer's endorsement to this license to allow the licensee to remove the liquor stocks at the licensed premises, for use as liquor for sale and service at event locations at a specified date and, except as provided in subsection (7) of this section, place not currently licensed by the board. If the event is open to the public, it must be sponsored by a society or organization as defined by RCW 66.24.375. If attendance at the event is limited to members or invited guests of the sponsoring individual, society, or organization, the requirement that the sponsor must be a society or organization as defined by RCW 66.24.375 is waived. Cost of the endorsement is three hundred fifty dollars.

(b) The holder of this license with a catering endorsement shall, if requested by the board, notify the board or its designee of the date, time, place, and location of any catered event. Upon request, the licensee shall provide to the board all necessary or requested information concerning the society or organization that will be holding the function at which the endorsed license will be utilized.

(c) The holder of this license with a caterer's endorsement may, under conditions established by the board, store liquor on the premises of another not licensed by the board so long as there is a written agreement between the licensee and the other party to provide for ongoing catering services, the agreement contains no exclusivity clauses regarding the alcoholic beverages to be served, and the agreement is filed with the board.

(d) The holder of this license with a caterer's endorsement may, under conditions established by the board, store liquor on other premises operated by the licensee so long as the other premises are owned or controlled by a leasehold interest by that licensee. A duplicate license may be issued for each additional premises. A license fee of twenty dollars shall be required for such duplicate licenses.

(7) Licensees under this section that hold a caterer's endorsement are allowed to use this endorsement on a domestic winery premises or on the premises of a passenger vessel and may store liquor at such premises under conditions established by the board under the following conditions:

(a) Agreements between the domestic winery or passenger vessel, as the case may be, and the retail licensee shall be in writing, contain no exclusivity clauses regarding the ~~((alcohol))~~ alcoholic beverages to be served, and be filed with the board; and

(b) The domestic winery or passenger vessel, as the case may be, and the retail licensee shall be separately contracted and compensated by the persons sponsoring the event for their respective services.

Sec. 9. RCW 66.24.320 and 2006 c 362 s 1 and 2006 c 101 s 2 are each reenacted and amended to read as follows:

There shall be a beer and/or wine restaurant license to sell beer, including strong beer, or wine, or both, at retail, for consumption on the premises. A patron of the licensee may remove from the premises, recorked or recapped in its original container, any portion of wine that was purchased for consumption with a meal.

(1) The annual fee shall be two hundred dollars for the beer license, two hundred dollars for the wine license, or four hundred dollars for a combination beer and wine license.

(2)(a) The board may issue a caterer's endorsement to this license to allow the licensee to remove from the liquor stocks at the licensed premises, only those types of liquor that are

authorized under the on-premises license privileges for sale and service at event locations at a specified date and, except as provided in subsection (3) of this section, place not currently licensed by the board. If the event is open to the public, it must be sponsored by a society or organization as defined by RCW 66.24.375. If attendance at the event is limited to members or invited guests of the sponsoring individual, society, or organization, the requirement that the sponsor must be a society or organization as defined by RCW 66.24.375 is waived. Cost of the endorsement is three hundred fifty dollars.

(b) The holder of this license with catering endorsement shall, if requested by the board, notify the board or its designee of the date, time, place, and location of any catered event. Upon request, the licensee shall provide to the board all necessary or requested information concerning the society or organization that will be holding the function at which the endorsed license will be utilized.

(c) The holder of this license with a caterer's endorsement may, under conditions established by the board, store liquor on the premises of another not licensed by the board so long as there is a written agreement between the licensee and the other party to provide for ongoing catering services, the agreement contains no exclusivity clauses regarding the alcoholic beverages to be served, and the agreement is filed with the board.

(d) The holder of this license with a caterer's endorsement may, under conditions established by the board, store liquor on other premises operated by the licensee so long as the other premises are owned or controlled by a leasehold interest by that licensee. A duplicate license may be issued for each additional premises. A license fee of twenty dollars shall be required for such duplicate licenses.

(3) Licensees under this section that hold a caterer's endorsement are allowed to use this endorsement on a domestic winery premises or on the premises of a passenger vessel and may store liquor at such premises under conditions established by the board under the following conditions:

(a) Agreements between the domestic winery or the passenger vessel, as the case may be, and the retail licensee shall be in writing, contain no exclusivity clauses regarding the ~~((alcohol))~~ alcoholic beverages to be served, and be filed with the board; and

(b) The domestic winery or passenger vessel, as the case may be, and the retail licensee shall be separately contracted and compensated by the persons sponsoring the event for their respective services.

(4) The holder of this license or its manager may furnish beer or wine to the licensee's employees free of charge as may be required for use in connection with instruction on beer and wine. The instruction may include the history, nature, values, and characteristics of beer or wine, the use of wine lists, and the methods of presenting, serving, storing, and handling beer or wine. The beer and/or wine licensee must use the beer or wine it obtains under its license for the sampling as part of the instruction. The instruction must be given on the premises of the beer and/or wine licensee.

(5) If the license is issued to a person who contracts with the Washington state ferry system to provide food and alcohol service on a designated ferry route, the license shall cover any vessel assigned to the designated route. A separate license is required for each designated ferry route.

Sec. 10. RCW 66.04.010 and 2006 c 225 s 1 and 2006 c 101 s 1 are each reenacted and amended to read as follows:

In this title, unless the context otherwise requires:

(1) "Alcohol" is that substance known as ethyl alcohol, hydrated oxide of ethyl, or spirit of wine, which is commonly produced by the fermentation or distillation of grain, starch, molasses, or sugar, or other substances including all dilutions and mixtures of this substance. The term "alcohol" does not include alcohol in the possession of a manufacturer or distiller of alcohol fuel, as described in RCW 66.12.130, which is intended to be denatured and used as a fuel for use in motor vehicles, farm implements, and machines or implements of husbandry.

(2) "Authorized representative" means a person who:

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(a) Is required to have a federal basic permit issued pursuant to the federal alcohol administration act, 27 U.S.C. Sec. 204;

(b) Has its business located in the United States outside of the state of Washington;

(c) Acquires ownership of beer or wine for transportation into and resale in the state of Washington; and which beer or wine is produced anywhere outside Washington by a brewery or winery which does not hold a certificate of approval issued by the board; and

(d) Is appointed by the brewery or winery referenced in (c) of this subsection as its exclusive authorized representative for marketing and selling its products within the United States in accordance with a written agreement between the authorized representative and such brewery or winery pursuant to this title. The board may waive the requirement for the written agreement of exclusivity in situations consistent with the normal marketing practices of certain products, such as classified growths.

(3) "Beer" means any malt beverage, flavored malt beverage, or malt liquor as these terms are defined in this chapter.

(4) "Beer distributor" means a person who buys beer from a domestic brewery, microbrewery, beer certificate of approval holder, or beer importers, or who acquires foreign produced beer from a source outside of the United States, for the purpose of selling the same pursuant to this title, or who represents such brewer or brewery as agent.

(5) "Beer importer" means a person or business within Washington who purchases beer from a beer certificate of approval holder or who acquires foreign produced beer from a source outside of the United States for the purpose of selling the same pursuant to this title.

(6) "Brewer" or "brewery" means any person engaged in the business of manufacturing beer and malt liquor. Brewer includes a brand owner of malt beverages who holds a brewer's notice with the federal bureau of alcohol, tobacco, and firearms at a location outside the state and whose malt beverage is contract-produced by a licensed in-state brewery, and who may exercise within the state, under a domestic brewery license, only the privileges of storing, selling to licensed beer distributors, and exporting beer from the state.

(7) "Board" means the liquor control board, constituted under this title.

(8) "Club" means an organization of persons, incorporated or unincorporated, operated solely for fraternal, benevolent, educational, athletic or social purposes, and not for pecuniary gain.

(9) "Consume" includes the putting of liquor to any use, whether by drinking or otherwise.

(10) "Contract liquor store" means a business that sells liquor on behalf of the board through a contract with a contract liquor store manager.

(11) "Dentist" means a practitioner of dentistry duly and regularly licensed and engaged in the practice of his profession within the state pursuant to chapter 18.32 RCW.

(12) "Distiller" means a person engaged in the business of distilling spirits.

(13) "Domestic brewery" means a place where beer and malt liquor are manufactured or produced by a brewer within the state.

(14) "Domestic winery" means a place where wines are manufactured or produced within the state of Washington.

(15) "Druggist" means any person who holds a valid certificate and is a registered pharmacist and is duly and regularly engaged in carrying on the business of pharmaceutical chemistry pursuant to chapter 18.64 RCW.

(16) "Drug store" means a place whose principal business is, the sale of drugs, medicines and pharmaceutical preparations and maintains a regular prescription department and employs a registered pharmacist during all hours the drug store is open.

(17) "Employee" means any person employed by the board.

(18) "Flavored malt beverage" means:

(a) A malt beverage containing six percent or less alcohol by volume to which flavoring or other added nonbeverage ingredients are added that contain distilled spirits of not more than forty-nine percent of the beverage's overall alcohol content; or

(b) A malt beverage containing more than six percent alcohol by volume to which flavoring or other added nonbeverage ingredients are added that contain distilled spirits of not more than one and one-half percent of the beverage's overall alcohol content.

(19) "Fund" means 'liquor revolving fund.'

(20) "Hotel" means ~~((every building or other structure)) buildings, structures, and grounds, having facilities for preparing, cooking, and serving food, that are kept, used, maintained, advertised, or held out to the public to be a place where food is served and sleeping accommodations are offered for pay to transient guests, in which twenty or more rooms are used for the sleeping accommodation of such transient guests ((and having one or more dining rooms where meals are served to such transient guests, such sleeping accommodations and dining rooms being conducted in the same building and buildings, in connection therewith, and such structure or structures being provided, in the judgment of the board, with adequate and sanitary kitchen and dining room equipment and capacity, for preparing, cooking and serving suitable food for its guests: PROVIDED FURTHER, That in cities and towns of less than five thousand population, the board shall have authority to waive the provisions requiring twenty or more rooms)). The buildings, structures, and grounds must be located on adjacent property either owned or leased by the same person or persons.~~

(21) "Importer" means a person who buys distilled spirits from a distillery outside the state of Washington and imports such spirituous liquor into the state for sale to the board or for export.

(22) "Imprisonment" means confinement in the county jail.

(23) "Liquor" includes the four varieties of liquor herein defined (alcohol, spirits, wine and beer), and all fermented, spirituous, vinous, or malt liquor, or combinations thereof, and mixed liquor, a part of which is fermented, spirituous, vinous or malt liquor, or otherwise intoxicating; and every liquid or solid or semisolid or other substance, patented or not, containing alcohol, spirits, wine or beer, and all drinks or drinkable liquids and all preparations or mixtures capable of human consumption, and any liquid, semisolid, solid, or other substance, which contains more than one percent of alcohol by weight shall be conclusively deemed to be intoxicating. Liquor does not include confections or food products that contain one percent or less of alcohol by weight.

(24) "Manufacturer" means a person engaged in the preparation of liquor for sale, in any form whatsoever.

(25) "Malt beverage" or "malt liquor" means any beverage such as beer, ale, lager beer, stout, and porter obtained by the alcoholic fermentation of an infusion or decoction of pure hops, or pure extract of hops and pure barley malt or other wholesome grain or cereal in pure water containing not more than eight percent of alcohol by weight, and not less than one-half of one percent of alcohol by volume. For the purposes of this title, any such beverage containing more than eight percent of alcohol by weight shall be referred to as "strong beer."

(26) "Package" means any container or receptacle used for holding liquor.

(27) "Passenger vessel" means any boat, ship, vessel, barge, or other floating craft of any kind carrying passengers for compensation.

(28) "Permit" means a permit for the purchase of liquor under this title.

(29) "Person" means an individual, copartnership, association, or corporation.

(30) "Physician" means a medical practitioner duly and regularly licensed and engaged in the practice of his profession within the state pursuant to chapter 18.71 RCW.

(31) "Prescription" means a memorandum signed by a physician and given by him to a patient for the obtaining of liquor pursuant to this title for medicinal purposes.

(32) "Public place" includes streets and alleys of incorporated cities and towns; state or county or township highways or roads; buildings and grounds used for school purposes; public dance halls and grounds adjacent thereto; those parts of establishments where beer may be sold under this title,

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soft drink establishments, public buildings, public meeting halls, lobbies, halls and dining rooms of hotels, restaurants, theatres, stores, garages and filling stations which are open to and are generally used by the public and to which the public is permitted to have unrestricted access; railroad trains, stages, and other public conveyances of all kinds and character, and the depots and waiting rooms used in conjunction therewith which are open to unrestricted use and access by the public; publicly owned bathing beaches, parks, and/or playgrounds; and all other places of like or similar nature to which the general public has unrestricted right of access, and which are generally used by the public.

(33) "Regulations" means regulations made by the board under the powers conferred by this title.

(34) "Restaurant" means any establishment provided with special space and accommodations where, in consideration of payment, food, without lodgings, is habitually furnished to the public, not including drug stores and soda fountains.

(35) "Sale" and "sell" include exchange, barter, and traffic; and also include the selling or supplying or distributing, by any means whatsoever, of liquor, or of any liquid known or described as beer or by any name whatever commonly used to describe malt or brewed liquor or of wine, by any person to any person; and also include a sale or selling within the state to a foreign consignee or his agent in the state. "Sale" and "sell" shall not include the giving, at no charge, of a reasonable amount of liquor by a person not licensed by the board to a person not licensed by the board, for personal use only. "Sale" and "sell" also does not include a raffle authorized under RCW 9.46.0315: PROVIDED, That the nonprofit organization conducting the raffle has obtained the appropriate permit from the board.

(36) "Soda fountain" means a place especially equipped with apparatus for the purpose of dispensing soft drinks, whether mixed or otherwise.

(37) "Spirits" means any beverage which contains alcohol obtained by distillation, except flavored malt beverages, but including wines exceeding twenty-four percent of alcohol by volume.

(38) "Store" means a state liquor store established under this title.

(39) "Tavern" means any establishment with special space and accommodation for sale by the glass and for consumption on the premises, of beer, as herein defined.

(40) "Winery" means a business conducted by any person for the manufacture of wine for sale, other than a domestic winery.

(41)(a) "Wine" means any alcoholic beverage obtained by fermentation of fruits (grapes, berries, apples, et cetera) or other agricultural product containing sugar, to which any saccharine substances may have been added before, during or after fermentation, and containing not more than twenty-four percent of alcohol by volume, including sweet wines fortified with wine spirits, such as port, sherry, muscatel and angelica, not exceeding twenty-four percent of alcohol by volume and not less than one-half of one percent of alcohol by volume. For purposes of this title, any beverage containing no more than fourteen percent of alcohol by volume when bottled or packaged by the manufacturer shall be referred to as "table wine," and any beverage containing alcohol in an amount more than fourteen percent by volume when bottled or packaged by the manufacturer shall be referred to as "fortified wine." However, "fortified wine" shall not include: (i) Wines that are both sealed or capped by cork closure and aged two years or more; and (ii) wines that contain more than fourteen percent alcohol by volume solely as a result of the natural fermentation process and that have not been produced with the addition of wine spirits, brandy, or alcohol.

(b) This subsection shall not be interpreted to require that any wine be labeled with the designation "table wine" or "fortified wine."

(42) "Wine distributor" means a person who buys wine from a domestic winery, wine certificate of approval holder, or wine importer, or who acquires foreign produced wine from a source outside of the United States, for the purpose of selling the same

not in violation of this title, or who represents such vintner or winery as agent.

(43) "Wine importer" means a person or business within Washington who purchases wine from a wine certificate of approval holder or who acquires foreign produced wine from a source outside of the United States for the purpose of selling the same pursuant to this title.

NEW SECTION. Sec. 11. A new section is added to chapter 66.24 RCW to read as follows:

(1) There shall be a retailer's license to be designated as a hotel license. No license may be issued to a hotel offering rooms to its guests on an hourly basis. Food service provided for room service, banquets or conferences, or restaurant operation under this license shall meet the requirements of rules adopted by the board.

(2) The hotel license authorizes the licensee to:

(a) Sell spiritous liquor, beer, and wine, by the individual glass, at retail, for consumption on the premises, including mixed drinks and cocktails compounded and mixed on the premises, at dining places in the hotel.

(b) Sell, at retail, from locked honor bars, in individual units, spirits not to exceed fifty milliliters, beer in individual units not to exceed twelve ounces, and wine in individual bottles not to exceed three hundred eighty-five milliliters, to registered guests of the hotel for consumption in guest rooms. The licensee shall require proof of age from the guest renting a guest room and requesting the use of an honor bar. The guest shall also execute an affidavit verifying that no one under twenty-one years of age shall have access to the spirits, beer, and wine in the honor bar;

(c) Provide without additional charge, to overnight guests, spirits, beer, and wine by the individual serving for on-premises consumption at a specified regular date, time, and place as may be fixed by the board. Self-service by attendees is prohibited;

(d) Sell beer, including strong beer, wine, or spirits, in the manufacturer's sealed container or by the individual drink to guests through room service, or through service to occupants of private residential units;

(e) Sell beer, including strong beer, or wine, in the manufacturer's sealed container at retail sales locations within the hotel premises;

(f) Sell for on or off-premises consumption, including through room service and service to occupants of private residential units managed by the hotel, wine carrying a label exclusive to the hotel license holder;

(g) Place in guest rooms at check-in, a complimentary bottle of beer, including strong beer, or wine in a manufacturer-sealed container, and make a reference to this service in promotional material.

(3) If all or any facilities for alcoholic beverage service and the preparation, cooking, and serving of food are operated under contract or joint venture agreement, the operator may hold a license separate from the license held by the operator of the hotel. Food and beverage inventory used in separate licensed operations at the hotel may not be shared and shall be separately owned and stored by the separate licensees.

(4) All spirits to be sold under this license must be purchased from the board.

(5) All on-premise alcoholic beverage service must be done by an alcohol server as defined in RCW 66.20.300 and must comply with RCW 66.20.310.

(6)(a) The hotel license allows the licensee to remove from the liquor stocks at the licensed premises, liquor for sale and service at event locations at a specified date and place not currently licensed by the board. If the event is open to the public, it must be sponsored by a society or organization as defined by RCW 66.24.375. If attendance at the event is limited to members or invited guests of the sponsoring individual, society, or organization, the requirement that the sponsor must be a society or organization as defined by RCW 66.24.375 is waived.

(b) The holder of this license shall, if requested by the board, notify the board or its designee of the date, time, place, and location of any event. Upon request, the licensee shall provide to the board all necessary or requested information

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concerning the society or organization that will be holding the function at which the endorsed license will be utilized.

(c) Licensees may cater events on a domestic winery premises.

(7) The holder of this license or its manager may furnish spirits, beer, or wine to the licensee's employees who are twenty-one years of age or older free of charge as may be required for use in connection with instruction on spirits, beer, and wine. The instruction may include the history, nature, values, and characteristics of spirits, beer, or wine, the use of wine lists, and the methods of presenting, serving, storing, and handling spirits, beer, or wine. The licensee must use the beer or wine it obtains under its license for the sampling as part of the instruction. The instruction must be given on the premises of the licensee.

(8) Minors may be allowed in all areas of the hotel where alcohol may be consumed; however, the consumption must be incidental to the primary use of the area. These areas include, but are not limited to, tennis courts, hotel lobbies, and swimming pool areas. If an area is not a mixed use area, and is primarily used for alcohol service, the area must be designated and restricted to access by minors.

(9) The annual fee for this license is two thousand dollars.

(10) As used in this section, "hotel," "spirits," "beer," and "wine" have the meanings defined in RCW 66.24.410 and 66.04.010.

Sec. 12. RCW 66.44.310 and 1998 c 126 s 14 are each amended to read as follows:

(1) Except as otherwise provided by RCW 66.44.316 ~~(and)~~, 66.44.350, and section 11 of this act, it shall be a misdemeanor:

(a) To serve or allow to remain in any area classified by the board as off-limits to any person under the age of twenty-one years;

(b) For any person under the age of twenty-one years to enter or remain in any area classified as off-limits to such a person, but persons under twenty-one years of age may pass through a restricted area in a facility holding a spirits, beer, and wine private club license;

(c) For any person under the age of twenty-one years to represent his or her age as being twenty-one or more years for the purpose of purchasing liquor or securing admission to, or remaining in any area classified by the board as off-limits to such a person.

(2) The Washington state liquor control board shall have the power and it shall be its duty to classify licensed premises or portions of licensed premises as off-limits to persons under the age of twenty-one years of age.

Sec. 13. RCW 66.24.400 and 2005 c 152 s 2 are each amended to read as follows:

(1) There shall be a retailer's license, to be known and designated as a spirits, beer, and wine restaurant license, to sell spirituous liquor by the individual glass, beer, and wine, at retail, for consumption on the premises, including mixed drinks and cocktails compounded or mixed on the premises only (~~PROVIDED, That a hotel, or~~). A club licensed under chapter 70.62 RCW with overnight sleeping accommodations, that is licensed under this section may sell liquor by the bottle to registered guests of the ~~(hotel or)~~ club for consumption in guest rooms, hospitality rooms, or at banquets in the ~~(hotel or)~~ club (~~PROVIDED FURTHER, That~~). A patron of a bona fide ~~(hotel)~~ restaurant ~~(or)~~ club licensed under this section may remove from the premises recorked or recapped in its original container any portion of wine which was purchased for consumption with a meal, and registered guests who have purchased liquor from the ~~(hotel or)~~ club by the bottle may remove from the premises any unused portion of such liquor in its original container. Such license may be issued only to bona fide restaurants ~~(or hotels)~~ and clubs, and to dining, club and buffet cars on passenger trains, and to dining places on passenger boats and airplanes, and to dining places at civic centers with facilities for sports, entertainment, and conventions, and to such other establishments operated and maintained primarily for the benefit of tourists, vacationers and travelers as the board shall determine are qualified to have, and in the

discretion of the board should have, a spirits, beer, and wine restaurant license under the provisions and limitations of this title.

(2) The board may issue an endorsement to the spirits, beer, and wine restaurant license that allows the holder of a spirits, beer, and wine restaurant license to sell for off-premises consumption wine vinted and bottled in the state of Washington and carrying a label exclusive to the license holder selling the wine. Spirits and beer may not be sold for off-premises consumption under this section. The annual fee for the endorsement under this subsection is one hundred twenty dollars.

(3) The holder of a spirits, beer, and wine license or its manager may furnish beer, wine, or spirituous liquor to the licensee's employees free of charge as may be required for use in connection with instruction on beer, wine, or spirituous liquor. The instruction may include the history, nature, values, and characteristics of beer, wine, or spirituous liquor, the use of wine lists, and the methods of presenting, serving, storing, and handling beer, wine, and spirituous liquor. The spirits, beer, and wine restaurant licensee must use the beer, wine, or spirituous liquor it obtains under its license for the sampling as part of the instruction. The instruction must be given on the premises of the spirits, beer, and wine restaurant licensee.

Sec. 14. RCW 66.08.180 and 2000 c 192 s 1 are each amended to read as follows:

Except as provided in RCW 66.24.290(1), moneys in the liquor revolving fund shall be distributed by the board at least once every three months in accordance with RCW 66.08.190, 66.08.200 and 66.08.210: PROVIDED, That the board shall reserve from distribution such amount not exceeding five hundred thousand dollars as may be necessary for the proper administration of this title.

(1) All license fees, penalties and forfeitures derived under chapter 13, Laws of 1935 from spirits, beer, and wine restaurant; spirits, beer, and wine private club; hotel; and sports entertainment facility licenses or spirits, beer, and wine restaurant; spirits, beer, and wine private club; and sports entertainment facility licensees shall every three months be disbursed by the board as follows:

(a) Three hundred thousand dollars per biennium, to the death investigations account for the state toxicology program pursuant to RCW 68.50.107; and

(b) Of the remaining funds:

(i) 6.06 percent to the University of Washington and 4.04 percent to Washington State University for alcoholism and drug abuse research and for the dissemination of such research; and

(ii) 89.9 percent to the general fund to be used by the department of social and health services solely to carry out the purposes of RCW 70.96A.050;

(2) The first fifty-five dollars per license fee provided in RCW 66.24.320 and 66.24.330 up to a maximum of one hundred fifty thousand dollars annually shall be disbursed every three months by the board to the general fund to be used for juvenile alcohol and drug prevention programs for kindergarten through third grade to be administered by the superintendent of public instruction;

(3) Twenty percent of the remaining total amount derived from license fees pursuant to RCW 66.24.320, 66.24.330, 66.24.350, and 66.24.360, shall be transferred to the general fund to be used by the department of social and health services solely to carry out the purposes of RCW 70.96A.050; and

(4) One-fourth cent per liter of the tax imposed by RCW 66.24.210 shall every three months be disbursed by the board to Washington State University solely for wine and wine grape research, extension programs related to wine and wine grape research, and resident instruction in both wine grape production and the processing aspects of the wine industry in accordance with RCW 28B.30.068. The director of financial management shall prescribe suitable accounting procedures to ensure that the funds transferred to the general fund to be used by the department of social and health services and appropriated are separately accounted for.

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Sec. 15. RCW 66.08.220 and 1999 c 281 s 2 are each amended to read as follows:

The board shall set aside in a separate account in the liquor revolving fund an amount equal to ten percent of its gross sales of liquor to spirits, beer, and wine restaurant; spirits, beer, and wine private club; hotel; and sports entertainment facility licensees collected from these licensees pursuant to the provisions of RCW 82.08.150, less the fifteen percent discount provided for in RCW 66.24.440; and the moneys in said separate account shall be distributed in accordance with the provisions of RCW 66.08.190, 66.08.200 and 66.08.210(~~(= PROVIDED, HOWEVER, That)~~). No election unit in which the sale of liquor under spirits, beer, and wine restaurant; spirits, beer, and wine private club; and sports entertainment facility licenses is unlawful shall be entitled to share in the distribution of moneys from such separate account.

Sec. 16. RCW 66.20.010 and 1998 c 126 s 1 are each amended to read as follows:

Upon application in the prescribed form being made to any employee authorized by the board to issue permits, accompanied by payment of the prescribed fee, and upon the employee being satisfied that the applicant should be granted a permit under this title, the employee shall issue to the applicant under such regulations and at such fee as may be prescribed by the board a permit of the class applied for, as follows:

(1) Where the application is for a special permit by a physician or dentist, or by any person in charge of an institution regularly conducted as a hospital or sanitorium for the care of persons in ill health, or as a home devoted exclusively to the care of aged people, a special liquor purchase permit;

(2) Where the application is for a special permit by a person engaged within the state in mechanical or manufacturing business or in scientific pursuits requiring alcohol for use therein, or by any private individual, a special permit to purchase alcohol for the purpose named in the permit;

(3) Where the application is for a special permit to consume liquor at a banquet, at a specified date and place, a special permit to purchase liquor for consumption at such banquet, to such applicants as may be fixed by the board;

(4) Where the application is for a special permit to consume liquor on the premises of a business not licensed under this title, a special permit to purchase liquor for consumption thereon for such periods of time and to such applicants as may be fixed by the board;

(5) Where the application is for a special permit by a manufacturer to import or purchase within the state alcohol, malt, and other materials containing alcohol to be used in the manufacture of liquor, or other products, a special permit;

(6) Where the application is for a special permit by a person operating a drug store to purchase liquor at retail prices only, to be thereafter sold by such person on the prescription of a physician, a special liquor purchase permit;

(7) Where the application is for a special permit by an authorized representative of a military installation operated by or for any of the armed forces within the geographical boundaries of the state of Washington, a special permit to purchase liquor for use on such military installation at prices to be fixed by the board;

(8) Where the application is for a special permit by a manufacturer, importer, or distributor, or representative thereof, to serve liquor without charge to delegates and guests at a convention of a trade association composed of licensees of the board, when the said liquor is served in a hospitality room or from a booth in a board-approved suppliers' display room at the convention, and when the liquor so served is for consumption in the said hospitality room or display room during the convention, anything in Title 66 RCW to the contrary notwithstanding. Any such spirituous liquor shall be purchased from the board or a spirits, beer, and wine restaurant licensee and any such beer and wine shall be subject to the taxes imposed by RCW 66.24.290 and 66.24.210;

(9) Where the application is for a special permit by a manufacturer, importer, or distributor, or representative thereof, to donate liquor for a reception, breakfast, luncheon, or dinner for delegates and guests at a convention of a trade association

composed of licensees of the board, when the liquor so donated is for consumption at the said reception, breakfast, luncheon, or dinner during the convention, anything in Title 66 RCW to the contrary notwithstanding. Any such spirituous liquor shall be purchased from the board or a spirits, beer, and wine restaurant licensee and any such beer and wine shall be subject to the taxes imposed by RCW 66.24.290 and 66.24.210;

(10) Where the application is for a special permit by a manufacturer, importer, or distributor, or representative thereof, to donate and/or serve liquor without charge to delegates and guests at an international trade fair, show, or exposition held under the auspices of a federal, state, or local governmental entity or organized and promoted by a nonprofit organization, anything in Title 66 RCW to the contrary notwithstanding. Any such spirituous liquor shall be purchased from the board and any such beer or wine shall be subject to the taxes imposed by RCW 66.24.290 and 66.24.210;

(11) Where the application is for an annual special permit by a person operating a bed and breakfast lodging facility to donate or serve wine or beer without charge to overnight guests of the facility if the wine or beer is for consumption on the premises of the facility. "Bed and breakfast lodging facility," as used in this subsection, means a (~~hotel or similar~~) facility offering from one to eight lodging units and breakfast to travelers and guests.

Sec. 17. RCW 66.20.310 and 1997 c 321 s 45 are each amended to read as follows:

(1)(a) There shall be an alcohol server permit, known as a class 12 permit, for a manager or bartender selling or mixing alcohol, spirits, wines, or beer for consumption at an on-premises licensed facility.

(b) There shall be an alcohol server permit, known as a class 13 permit, for a person who only serves alcohol, spirits, wines, or beer for consumption at an on-premises licensed facility.

(c) As provided by rule by the board, a class 13 permit holder may be allowed to act as a bartender without holding a class 12 permit.

(2)(a) Effective January 1, 1997, except as provided in (d) of this subsection, every person employed, under contract or otherwise, by an annual retail liquor licensee holding a license as authorized by RCW 66.24.320, 66.24.330, 66.24.350, 66.24.400, 66.24.425, 66.24.450, section 11 of this act, or 66.24.570, who as part of his or her employment participates in any manner in the sale or service of alcoholic beverages shall have issued to them a class 12 or class 13 permit.

(b) Every class 12 and class 13 permit issued shall be issued in the name of the applicant and no other person may use the permit of another permit holder. The holder shall present the permit upon request to inspection by a representative of the board or a peace officer. The class 12 or class 13 permit shall be valid for employment at any retail licensed premises described in (a) of this subsection.

(c) No licensee described in (a) of this subsection, except as provided in (d) of this subsection, may employ or accept the services of any person without the person first having a valid class 12 or class 13 permit.

(d) Within sixty days of initial employment, every person whose duties include the compounding, sale, service, or handling of liquor shall have a class 12 or class 13 permit.

(e) No person may perform duties that include the sale or service of alcoholic beverages on a retail licensed premises without possessing a valid alcohol server permit.

(3) A permit issued by a training entity under this section is valid for employment at any retail licensed premises described in subsection (2)(a) of this section for a period of five years unless suspended by the board.

(4) The board may suspend or revoke an existing permit if any of the following occur:

(a) The applicant or permittee has been convicted of violating any of the state or local intoxicating liquor laws of this state or has been convicted at any time of a felony; or

(b) The permittee has performed or permitted any act that constitutes a violation of this title or of any rule of the board.

(5) The suspension or revocation of a permit under this section does not relieve a licensee from responsibility for any act

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of the employee or agent while employed upon the retail licensed premises. The board may, as appropriate, revoke or suspend either the permit of the employee who committed the violation or the license of the licensee upon whose premises the violation occurred, or both the permit and the license.

(6)(a) After January 1, 1997, it is a violation of this title for any retail licensee or agent of a retail licensee as described in subsection (2)(a) of this section to employ in the sale or service of alcoholic beverages, any person who does not have a valid alcohol server permit or whose permit has been revoked, suspended, or denied.

(b) It is a violation of this title for a person whose alcohol server permit has been denied, suspended, or revoked to accept employment in the sale or service of alcoholic beverages.

(7) Grocery stores licensed under RCW 66.24.360, the primary commercial activity of which is the sale of grocery products and for which the sale and service of beer and wine for on-premises consumption with food is incidental to the primary business, and employees of such establishments, are exempt from RCW 66.20.300 through 66.20.350.

Sec. 18. RCW 66.24.410 and 1983 c 3 s 164 are each amended to read as follows:

(1) "Spirituous liquor," as used in RCW 66.24.400 to 66.24.450, inclusive, means "liquor" as defined in RCW 66.04.010, except "wine" and "beer" sold as such.

(2) "Restaurant" as used in RCW 66.24.400 to 66.24.450, inclusive, means an establishment provided with special space and accommodations where, in consideration of payment, food, without lodgings, is habitually furnished to the public, not including drug stores and soda fountains: PROVIDED, That such establishments shall be approved by the board and that the board shall be satisfied that such establishment is maintained in a substantial manner as a place for preparing, cooking and serving of complete meals. The service of only fry orders or such food and victuals as sandwiches, hamburgers, or salads shall not be deemed in compliance with this definition.

(3) "Hotel," "clubs," "wine" and "beer" are used in RCW 66.24.400 to 66.24.450, inclusive, with the meaning given in chapter 66.04 RCW(~~PROVIDED, That any such hotel shall be provided with special space and accommodations where, in consideration of payment, food is habitually furnished to the public. PROVIDED FURTHER, That the board shall be satisfied that such hotel is maintained in a substantial manner as a place for preparing, cooking and serving of complete meals. The service of only fry orders, sandwiches, hamburgers, or salads shall not be deemed in compliance with this definition~~)).

Sec. 19. RCW 66.24.420 and 2006 c 101 s 3 and 2006 c 85 s 1 are each reenacted and amended to read as follows:

(1) The spirits, beer, and wine restaurant license shall be issued in accordance with the following schedule of annual fees:

(a) The annual fee for a spirits, beer, and wine restaurant license shall be graduated according to the dedicated dining area and type of service provided as follows:

Less than 50% dedicated dining area	\$2,000
50% or more dedicated dining area	\$1,600
Service bar only	\$1,000

(b) The annual fee for the license when issued to any other spirits, beer, and wine restaurant licensee outside of incorporated cities and towns shall be prorated according to the calendar quarters, or portion thereof, during which the licensee is open for business, except in case of suspension or revocation of the license.

(c) Where the license shall be issued to any corporation, association or person operating a bona fide restaurant in an airport terminal facility providing service to transient passengers with more than one place where liquor is to be dispensed and sold, such license shall be issued upon the payment of the annual fee, which shall be a master license and shall permit such sale within and from one such place. Such license may be extended to additional places on the premises at the discretion of the board and a duplicate license may be issued for each such additional place. The holder of a master license for a restaurant in an airport terminal facility must maintain in a substantial

manner at least one place on the premises for preparing, cooking, and serving of complete meals, and such food service shall be available on request in other licensed places on the premises. An additional license fee of twenty-five percent of the annual master license fee shall be required for such duplicate licenses.

(d) Where the license shall be issued to any corporation, association, or person operating dining places at a publicly or privately owned civic or convention center with facilities for sports, entertainment, or conventions, or a combination thereof, with more than one place where liquor is to be dispensed and sold, such license shall be issued upon the payment of the annual fee, which shall be a master license and shall permit such sale within and from one such place. Such license may be extended to additional places on the premises at the discretion of the board and a duplicate license may be issued for each such additional place. The holder of a master license for a dining place at such a publicly or privately owned civic or convention center must maintain in a substantial manner at least one place on the premises for preparing, cooking, and serving of complete meals, and food service shall be available on request in other licensed places on the premises. An additional license fee of ten dollars shall be required for such duplicate licenses.

~~((c) Where the license shall be issued to any corporation, association or person operating more than one building containing dining places at privately owned facilities which are open to the public and where there is a continuity of ownership of all adjacent property, such license shall be issued upon the payment of an annual fee which shall be a master license and shall permit such sale within and from one such place. Such license may be extended to the additional dining places on the property or, in the case of a spirits, beer, and wine restaurant licensed hotel, property owned or controlled by leasehold interest by that hotel for use as a conference or convention center or banquet facility open to the general public for special events in the same metropolitan area, at the discretion of the board and a duplicate license may be issued for each additional place. The holder of the master license for the dining place shall not offer alcoholic beverages for sale, service, and consumption at the additional place unless food service is available at both the location of the master license and the duplicate license. An additional license fee of twenty dollars shall be required for such duplicate licenses.))~~

(2) The board, so far as in its judgment is reasonably possible, shall confine spirits, beer, and wine restaurant licenses to the business districts of cities and towns and other communities, and not grant such licenses in residential districts, nor within the immediate vicinity of schools, without being limited in the administration of this subsection to any specific distance requirements.

(3) The board shall have discretion to issue spirits, beer, and wine restaurant licenses outside of cities and towns in the state of Washington. The purpose of this subsection is to enable the board, in its discretion, to license in areas outside of cities and towns and other communities, establishments which are operated and maintained primarily for the benefit of tourists, vacationers and travelers, and also golf and country clubs, and common carriers operating dining, club and buffet cars, or boats.

(4) The total number of spirits, beer, and wine restaurant licenses issued in the state of Washington by the board, not including spirits, beer, and wine private club licenses, shall not in the aggregate at any time exceed one license for each one thousand four hundred fifty of population in the state, determined according to the yearly population determination developed by the office of financial management pursuant to RCW 43.62.030.

(5) Notwithstanding the provisions of subsection (4) of this section, the board shall refuse a spirits, beer, and wine restaurant license to any applicant if in the opinion of the board the spirits, beer, and wine restaurant licenses already granted for the particular locality are adequate for the reasonable needs of the community.

(6)(a) The board may issue a caterer's endorsement to this license to allow the licensee to remove the liquor stocks at the licensed premises, for use as liquor for sale and service at event

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locations at a specified date and, except as provided in subsection (7) of this section, place not currently licensed by the board. If the event is open to the public, it must be sponsored by a society or organization as defined by RCW 66.24.375. If attendance at the event is limited to members or invited guests of the sponsoring individual, society, or organization, the requirement that the sponsor must be a society or organization as defined by RCW 66.24.375 is waived. Cost of the endorsement is three hundred fifty dollars.

(b) The holder of this license with catering endorsement shall, if requested by the board, notify the board or its designee of the date, time, place, and location of any catered event. Upon request, the licensee shall provide to the board all necessary or requested information concerning the society or organization that will be holding the function at which the endorsed license will be utilized.

(7) Licensees under this section that hold a caterer's endorsement are allowed to use this endorsement on a domestic winery premises or on the premises of a passenger vessel under the following conditions:

(a) Agreements between the domestic winery or passenger vessel, as the case may be, and the retail licensee shall be in writing, contain no exclusivity clauses regarding the alcohol beverages to be served, and be filed with the board; and

(b) The domestic winery or passenger vessel, as the case may be, and the retail licensee shall be separately contracted and compensated by the persons sponsoring the event for their respective services.

Sec. 20. RCW 66.24.440 and 1998 c 126 s 8 are each amended to read as follows:

Each spirits, beer, and wine restaurant, spirits, beer, and wine private club, hotel, and sports entertainment facility licensee shall be entitled to purchase any spirituous liquor items salable under such license from the board at a discount of not less than fifteen percent from the retail price fixed by the board, together with all taxes.

NEW SECTION. Sec. 21. Sections 4 and 6 of this act expire June 30, 2008.

NEW SECTION. Sec. 22. Sections 5 and 7 of this act take effect June 30, 2008.

NEW SECTION. Sec. 23. Sections 10 through 20 of this act take effect July 1, 2008." and the same are herewith transmitted.

RICHARD NAFZIGER, Chief Clerk

MOTION

Senator Kohl-Welles moved that the Senate concur in the House amendment(s) to Engrossed Second Substitute Senate Bill No. 5859.

Senator Kohl-Welles spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Kohl-Welles that the Senate concur in the House amendment(s) to Engrossed Second Substitute Senate Bill No. 5859.

The motion by Senator Kohl-Welles carried and the Senate concurred in the House amendment(s) to Engrossed Second Substitute Senate Bill No. 5859 by voice vote.

The President declared the question before the Senate to be the final passage of Engrossed Second Substitute Senate Bill No. 5859, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Second Substitute Senate Bill No. 5859, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 47; Nays, 2; Absent, 0; Excused, 0.

Voting yea: Senators Benton, Berkey, Brandland, Brown, Carrell, Clements, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, Morton, Murray, Oemig,

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Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Swecker, Tom, Weinstein and Zarelli - 47

Voting nay: Senators Honeyford and Stevens - 2

ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 5859, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

April 10, 2007

MR. PRESIDENT:

The House has passed ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 5862, with the following amendment: 5862-S2.E AMH ENGR H3255.E

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 36.57A.220 and 2006 c 332 s 8 are each amended to read as follows:

A public transportation benefit area seeking grant funding as described in RCW 47.01.350 for a passenger-only ferry route between Kingston and Seattle shall first receive approval from the governor after submitting a complete business plan to the governor and the legislature by November 1, ~~((2006))~~ 2007. The business plan must, at a minimum, include hours of operation, vessel needs, labor needs, proposed routes, passenger terminal facilities, passenger rates, anticipated federal and local funding, coordination with the Washington state ferry system, coordination with existing transit providers, long-term operation and maintenance needs, and a long-term financial plan.

Sec. 2. RCW 47.01.350 and 2006 c 332 s 4 are each amended to read as follows:

(1) The department of transportation shall establish a ferry grant program subject to availability of amounts appropriated for this specific purpose. The purpose of the grant program is to provide operating or capital grants for ferry systems as provided in chapters 36.54 and 36.57A RCW to operate passenger-only ferry service.

(2) In providing grants under this section, the department may enter into multiple year contracts with the stipulation that future year allocations are subject to the availability of funding as provided by legislative appropriation.

~~((3) Priority shall be given to grant applications that provide continuity of existing passenger-only service and the provision of local or federal matching funds.))~~

Sec. 3. RCW 47.60.662 and 2006 c 332 s 5 are each amended to read as follows:

The Washington state ferry system shall collaborate with new and potential passenger-only ferry service providers, as described in ~~((RCW 36.54.110(5)))~~ chapters 36.54 and 36.57A RCW, for terminal operations at its existing terminal facilities.

Sec. 4. 2006 c 332 s 2 (uncodified) is amended to read as follows:

~~((By October 31, 2006, the department of transportation shall have an independent appraisal of the market value of the Washington state ferries Snohomish and Chinook and present it to the transportation committees of the legislature and the governor by November 1, 2006.))~~ The department of transportation shall ~~((sell or otherwise dispose of))~~ make available for sale the Washington state ferries Snohomish and Chinook ~~((for))~~ at market value ~~((and deposit the proceeds of the sales into the passenger ferry account created in RCW 47.60.645 as soon as practicable upon approval by the governor of the business plan described in RCW 36.54.110(5)))~~ by June 1, 2007. Proceeds from the sale must be deposited into the passenger ferry account created in RCW 47.60.645.

Sec. 5. RCW 36.54.110 and 2006 c 332 s 7 are each amended to read as follows:

(1) The legislative authority of a county may adopt an ordinance creating a ferry district in all or a portion of the area

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of the county, including the area within the corporate limits of any city or town within the county. The ordinance may be adopted only after a public hearing has been held on the creation of a ferry district, and the county legislative authority makes a finding that it is in the public interest to create the district.

(2) A ferry district is a municipal corporation, an independent taxing "authority" within the meaning of Article VII, section 1 of the state Constitution, and a "taxing district" within the meaning of Article VII, section 2 of the state Constitution.

(3) A ferry district is a body corporate and possesses all the usual powers of a corporation for public purposes as well as all other powers that may now or hereafter be specifically conferred by statute, including, but not limited to, the authority to hire employees, staff, and services, to enter into contracts, and to sue and be sued.

(4) The members of the county legislative authority, acting ex officio and independently, shall compose the governing body of any ferry district that is created within the county. The voters of a ferry district must be registered voters residing within the boundaries of the district.

(5) A county with a population greater than one million persons and having a boundary on Puget Sound, or a county to the west of Puget Sound with a population greater than two hundred thirty thousand but less than three hundred thousand persons, proposing to create a ferry district to assume a passenger-only ferry route between Vashon and Seattle, including an expansion of that route to include Southworth, shall first receive approval from the governor after submitting a complete business plan to the governor and the legislature by November 1, ~~((2006))~~ 2007. The business plan must, at a minimum, include hours of operation, vessel needs, labor needs, proposed routes, passenger terminal facilities, passenger rates, anticipated federal and local funding, coordination with Washington state ferry system, coordination with existing transit providers, long-term operation and maintenance needs, and long-term financial plan. The business plan may include provisions regarding coordination with an appropriate county to participate in a joint ferry under RCW 36.54.030 through 36.54.070. In order to be considered for assuming the route, the ferry district shall ensure that the route will be operated only by the ferry district and not contracted out to a private entity, all existing labor agreements will be honored, and operations will begin no later than July 1, ~~((2007))~~ 2008. If the route is to be expanded to include serving Southworth, the ferry district shall enter into an interlocal agreement with the public transportation benefit area serving the Southworth ferry terminal within thirty days of beginning Southworth ferry service. For the purposes of this subsection, Puget Sound is considered as extending north to Admiralty Inlet.

Sec. 6. RCW 36.54.130 and 2006 c 332 s 9 are each amended to read as follows:

(1) To carry out the purposes for which ferry districts are created, the governing body of a ferry district may levy each year an ad valorem tax on all taxable property located in the district not to exceed seventy-five cents per thousand dollars of assessed value. The levy must be sufficient for the provision of ferry services as shown to be required by the budget prepared by the governing body of the ferry district.

(2) A tax imposed under this section may be used only for:

(a) Providing ferry services, including the purchase, lease, or rental of ferry vessels and dock facilities~~((:));~~

(b) The operation ~~((and)),~~ maintenance, and improvement of ferry vessels and dock facilities~~((:));~~

(c) Providing shuttle services between the ferry terminal and passenger parking facilities, and other landside improvements directly related to the provision of passenger-only ferry service; and

(d) Related personnel costs.

NEW SECTION. Sec. 7. A new section is added to chapter 36.54 RCW to read as follows:

(1) A county ferry district may incur general indebtedness, and issue general obligation bonds, to finance the construction, purchase, and preservation of passenger-only ferries and associated terminals and retire the indebtedness in whole or in

part from the revenues received from the tax levy authorized in RCW 36.54.130.

(2) The ordinance adopted by the county legislative authority creating the county ferry district and authorizing the use of revenues received from the tax levy authorized in RCW 36.54.130 must indicate an intent to incur this indebtedness and the maximum amount of this indebtedness that is contemplated.

Sec. 8. RCW 47.60.658 and 2006 c 332 s 3 are each amended to read as follows:

The department shall maintain the level of service existing on January 1, 2006, for the Vashon to Seattle passenger-only ferry route until such time as the ~~((legislature approves a county ferry district's assumption of the route, as authorized under RCW 36.54.110(5)))~~ route is assumed by another entity, providing a level of service at or exceeding the state level.

Sec. 9. RCW 82.08.0255 and 2005 c 443 s 5 are each amended to read as follows:

(1) The tax levied by RCW 82.08.020 shall not apply to sales of motor vehicle and special fuel if:

(a) The fuel is purchased for the purpose of public transportation and the purchaser is entitled to a refund or an exemption under RCW 82.36.275 or 82.38.080(3); or

(b) The fuel is purchased by a private, nonprofit transportation provider certified under chapter 81.66 RCW and the purchaser is entitled to a refund or an exemption under RCW 82.36.285 or 82.38.080(1)(h); or

(c) The fuel is purchased by a public transportation benefit area created under chapter 36.57A RCW or a county-owned ferry or county ferry district created under chapter 36.54 RCW for use in passenger-only ferry vessels; or

~~((d) The fuel is taxable under chapter 82.36 or 82.38 RCW.~~

(2) Any person who has paid the tax imposed by RCW 82.08.020 on the sale of special fuel delivered in this state shall be entitled to a credit or refund of such tax with respect to fuel subsequently established to have been actually transported and used outside this state by persons engaged in interstate commerce. The tax shall be claimed as a credit or refunded through the tax reports required under RCW 82.38.150.

Sec. 10. RCW 82.12.0256 and 2005 c 443 s 6 are each amended to read as follows:

The provisions of this chapter shall not apply in respect to the use of:

(1) Special fuel purchased in this state upon which a refund is obtained as provided in RCW 82.38.180(2); and

(2) Motor vehicle and special fuel if:

(a) The fuel is used for the purpose of public transportation and the purchaser is entitled to a refund or an exemption under RCW 82.36.275 or 82.38.080(3); or

(b) The fuel is purchased by a private, nonprofit transportation provider certified under chapter 81.66 RCW and the purchaser is entitled to a refund or an exemption under RCW 82.36.285 or 82.38.080(1)(h); or

(c) The fuel is purchased by a public transportation benefit area created under chapter 36.57A RCW or a county-owned ferry or county ferry district created under chapter 36.54 RCW for use in passenger-only ferry vessels; or

~~((d) The fuel is taxable under chapter 82.36 or 82.38 RCW: PROVIDED, That the use of motor vehicle and special fuel upon which a refund of the applicable fuel tax is obtained shall not be exempt under this subsection (2)((f)) (d), and the director of licensing shall deduct from the amount of such tax to be refunded the amount of tax due under this chapter and remit the same each month to the department of revenue.~~

NEW SECTION. Sec. 11. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately."

Correct the title.

and the same are herewith transmitted.

RICHARD NAFZIGER, Chief Clerk

MOTION

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Senator Kilmer moved that the Senate concur in the House amendment(s) to Engrossed Second Substitute Senate Bill No. 5862.

Senator Kilmer spoke in favor of the motion.

MOTION

On motion of Senator Marr, Senator Pridemore was excused.

The President declared the question before the Senate to be the motion by Senator Kilmer that the Senate concur in the House amendment(s) to Engrossed Second Substitute Senate Bill No. 5862.

The motion by Senator Kilmer carried and the Senate concurred in the House amendment(s) to Engrossed Second Substitute Senate Bill No. 5862 by voice vote.

The President declared the question before the Senate to be the final passage of Engrossed Second Substitute Senate Bill No. 5862, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Second Substitute Senate Bill No. 5862, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 45; Nays, 3; Absent, 0; Excused, 1.

Voting yea: Senators Berkey, Brandland, Brown, Carrell, Clements, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Swecker, Tom, Weinstein and Zarelli - 45

Voting nay: Senators Benton, Poulsen and Stevens - 3

Excused: Senator Pridemore - 1

ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 5862, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

April 4, 2007

MR. PRESIDENT:

The House has passed ENGROSSED SUBSTITUTE SENATE BILL NO. 5915, with the following amendment: 5915-S.E AMH CL REIN 100

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** A new section is added to chapter 50.12 RCW to read as follows:

When an employer initially files a master application under chapter 19.02 RCW for the purpose, in whole or in part, of registering to pay unemployment insurance taxes, the employment security department shall send to the employer any printed material the department recommends or requires the employer to post. Any time the printed material has substantive changes in the information, the department shall send a copy to each employer.

NEW SECTION. **Sec. 2.** A new section is added to chapter 43.22 RCW to read as follows:

When an employer initially files a master application under chapter 19.02 RCW for the purpose, in whole or in part, of registering to pay industrial insurance taxes, the department shall send to the employer any printed material the department recommends or requires the employer to post. Any time the printed material has substantive changes in the information, the department shall send a copy to each employer."

Correct the title.
and the same are herewith transmitted.

RICHARD NAFZIGER, Chief Clerk

MOTION

Senator Honeyford moved that the Senate concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 5915.

Senators Honeyford and Kohl-Welles spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Honeyford that the Senate concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 5915.

The motion by Senator Honeyford carried and the Senate concurred in the House amendment(s) to Engrossed Substitute Senate Bill No. 5915 by voice vote.

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 5915, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 5915, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Benton, Berkey, Brandland, Brown, Carrell, Clements, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, Morton, Murray, Oemig, Parlette, Pflug, Poulsen, Prentice, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Tom, Weinstein and Zarelli - 48

Excused: Senator Pridemore - 1

ENGROSSED SUBSTITUTE SENATE BILL NO. 5915, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

April 9, 2007

MR. PRESIDENT:

The House has passed SENATE BILL NO. 5926, with the following amendment: 5926 AMH CONW ELGE 080

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** The legislature finds that some current estimates place the percentage of unreported employment in Washington state's construction industry at between twenty percent and fifty percent, although solid data on this phenomenon is not readily available in Washington. The legislature also finds that unreported construction employment may result in the loss of a worker's employment rights and protections, including workers' compensation and unemployment insurance compensation. The legislature further finds that unreported construction employment also could deny the state the revenues it is due, including sales taxes, business and occupation taxes, and other business fees paid to the state. The legislature declares that the underground economy in this state may permit unfair conditions to exist against persons working in the construction industry who do follow the employment laws and appropriately pay taxes. It is the legislature's intent to determine the extent and potential costs to the state of the underground economy in the construction industry.

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NEW SECTION. Sec. 2. (1) The joint legislative task force on the underground economy in the Washington state construction industry is established. For purposes of this section, "underground economy" means contracting and construction activities in which payroll is unreported or underreported with consequent nonpayment of payroll taxes to federal and state agencies including nonpayment of workers' compensation and unemployment compensation taxes.

(2) The purpose of the task force is to formulate a state policy to establish cohesion and transparency between state agencies so as to increase the oversight and regulation of the underground economy practices in the construction industry in this state. To assist the task force in achieving this goal and to determine the extent of and projected costs to the state and workers of the underground economy in the construction industry, the task force shall contract with the institute for public policy, or, if the institute is unavailable, another entity with expertise capable of providing such assistance.

(3)(a) The task force shall consist of the following members:

(i) The chair and ranking minority member of the senate labor, commerce, research and development committee;

(ii) The chair and ranking minority member of the house of representatives commerce and labor committee;

(iii) Four members representing the construction business, selected from nominations submitted by statewide construction business organizations and appointed jointly by the president of the senate and the speaker of the house of representatives;

(iv) Four members representing construction laborers, selected from nominations submitted by statewide labor organizations and appointed jointly by the president of the senate and the speaker of the house of representatives.

(b) In addition, the employment security department, the department of labor and industries, and the department of revenue shall cooperate with the task force and shall each maintain a liaison representative, who is a nonvoting member of the task force. The departments shall cooperate with the task force and the institute for public policy, or other entity as appropriate, and shall provide information and data as the task force or the institute, or other entity as appropriate, may reasonably request.

(c) The task force shall choose its chair or cochair from among its legislative membership. The chairs of the senate labor, commerce, research and development committee and the house of representatives commerce and labor committee shall convene the initial meeting of the task force.

(4)(a) The task force shall use legislative facilities and staff support shall be provided by senate committee services and the house of representatives office of program research. Within available funding, the task force may hire additional staff with specific technical expertise if such expertise is necessary to carry out the mandates of this study.

(b) Legislative members of the task force shall be reimbursed for travel expenses in accordance with RCW 44.04.120. Nonlegislative members, except those representing an employer or organization, are entitled to be reimbursed for travel expenses in accordance with RCW 43.03.050 and 43.03.060.

(c) The expenses of the task force will be paid jointly by the senate and house of representatives. Task force expenditures are subject to approval by the senate facilities and operations committee and the house of representatives executive rules committee, or their successor committees.

(5) The task force shall report its findings and recommendations to the legislature by January 1, 2008.

(6) This section expires July 1, 2008.

NEW SECTION. Sec. 3. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately."

Correct the title.

and the same are herewith transmitted.

RICHARD NAFZIGER, Chief Clerk

MOTION

Senator Kohl-Welles moved that the Senate concur in the House amendment(s) to Senate Bill No. 5926.

Senators Kohl-Welles and Clements spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Kohl-Welles that the Senate concur in the House amendment(s) to Senate Bill No. 5926.

The motion by Senator Kohl-Welles carried and the Senate concurred in the House amendment(s) to Senate Bill No. 5926 by voice vote.

The President declared the question before the Senate to be the final passage of Senate Bill No. 5926, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 5926, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Benton, Berkey, Brandland, Brown, Carrell, Clements, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, Morton, Murray, Oemig, Parlette, Pflug, Poulsen, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Tom, Weinstein and Zarelli - 49

SENATE BILL NO. 5926, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MESSAGE FROM THE HOUSE

April 12, 2007

MR. PRESIDENT:

The House has passed SECOND SUBSTITUTE SENATE BILL NO. 5995, with the following amendment: 5995-S2 AMH KENN TAYL 164

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 43.162.005 and 2003 c 235 s 1 are each amended to read as follows:

The legislature finds that Washington's innovation and trade-driven economy has provided tremendous opportunities for citizens of the state, but that there is no guarantee that globally competitive firms will continue to grow and locate in the state. The current economic development system is fragmented among numerous programs, councils, centers, and organizations with inadequate overall coordination and insufficient guidance built into the system to ensure that the system is responsive to its customers. The current economic development system's data-gathering and evaluation methods are inconsistent and unable to provide adequate information for determining how well the system is performing on a regular basis so the system may be held accountable for its outcomes.

The legislature also finds that developing ((an effective)) a comprehensive economic development ((strategy for the state and operating)) strategic plan to guide the operation of effective economic development programs, including workforce training, infrastructure development, small business assistance, technology transfer, and export assistance, ((are)) is vital to the state's efforts to increase the competitiveness of state businesses, encourage employment growth, increase state revenues, and generate economic well-being. ((In addition, the legislature finds that)) There is a need for responsive and consistent involvement of the private sector in the state's economic development efforts. The legislature finds that there is a need

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for the development of coordination criteria for business recruitment, expansion, and retention activities carried out by the state and local entities. It is the intent of the legislature to create an economic development commission that will ((develop and update the state's economic development strategy and performance measures and provide advice to and oversight of the department of community, trade, and economic development)) provide planning, coordination, evaluation, monitoring, and policy analysis and development for the state economic development system as a whole, and advice to the governor and legislature concerning the state economic development system.

Sec. 2. RCW 43.162.010 and 2003 c 235 s 2 are each amended to read as follows:

(1) The Washington state economic development commission is established to oversee the economic development strategies and policies of the department of community, trade, and economic development.

(2)(a) The Washington state economic development commission shall consist of ~~((at least seven and no more than nine)) eleven voting~~ members appointed by the governor as follows: Six representatives of the private sector, one representative of labor, one representative of port districts, one representative of four-year state public higher education, one representative for state community or technical colleges, and one representative of associate development organizations. The director of the department of community, trade, and economic development, the director of the workforce training and education coordinating board, the commissioner of the employment security department, and the chairs and ranking minority members of the standing committees of the house of representatives and the senate overseeing economic development policies shall serve as nonvoting ex officio members.

The chair of the commission shall be a voting member selected by the governor with the consent of the senate, and shall serve at the pleasure of the governor. In selecting the chair, the governor shall seek a person who understands the future economic needs of the state and nation and the role the state's economic development system has in meeting those needs.

(b) In making the appointments, the governor shall consult with organizations that have an interest in economic development, including, but not limited to, industry associations, labor organizations, minority business associations, economic development councils, chambers of commerce, port associations, tribes, and the chairs of the legislative committees with jurisdiction over economic development.

(c) The members shall be representative of the geographic regions of the state, including eastern and central Washington, as well as represent the ethnic diversity of the state. ~~((Representation shall derive primarily from the)) Private sector~~ ~~(including, but not limited to,)~~ members shall represent existing and emerging industries, small businesses, women-owned businesses, and minority-owned businesses ~~((but other sectors of the economy that have experience in economic development, including labor organizations and nonprofit organizations, shall be represented as well. A minimum of seventy-five percent of the members shall represent the private sector))~~. Members of the commission shall serve statewide interests while preserving their diverse perspectives, and shall be recognized leaders in their fields with demonstrated experience in economic development or disciplines related to economic development.

(3) Members appointed by the governor shall serve at the pleasure of the governor for three-year terms ~~((except that through June 30, 2004, members currently serving on the economic development commission created by executive order may continue to serve at the pleasure of the governor. Of the initial members appointed to serve after June 30, 2004, two members shall serve one-year terms, three members shall serve two-year terms, and the remainder of the commission members shall serve three-year terms))~~.

(4) ~~((The commission chair shall be selected from among the appointed members by the majority vote of the members.~~

~~((5))) The commission may establish committees as it desires, and may invite nonmembers of the commission to serve as committee members.~~

~~((5)) The executive director of the commission shall be appointed by the governor with the consent of the voting members of the commission. The governor may dismiss the executive director only with the approval of a majority vote of the commission. The commission, by a majority vote, may dismiss the executive director with the approval of the governor.~~

~~((6)) The commission may adopt rules for its own governance.~~
NEW SECTION. Sec. 3. A new section is added to chapter 43.162 RCW to read as follows:

(1) The commission shall employ an executive director. The executive director shall serve as chief executive officer of the commission and shall administer the provisions of this chapter, employ such personnel as may be necessary to implement the purposes of this chapter, utilize staff of existing operating agencies to the fullest extent possible, and employ outside consulting and service agencies when appropriate.

(2) The executive director may not be the chair of the commission.

(3) The executive director shall appoint necessary staff who shall be exempt from the provisions of chapter 41.06 RCW. The executive director's appointees shall serve at the executive director's pleasure on such terms and conditions as the executive director determines but subject to chapter 42.52 RCW.

(4) The executive director shall appoint and employ such other employees as may be required for the proper discharge of the functions of the commission.

(5) The executive director shall exercise such additional powers, other than rule making, as may be delegated by the commission.

Sec. 4. RCW 43.162.020 and 2003 c 235 s 3 are each amended to read as follows:

The Washington state economic development commission shall ~~((perform the following duties:~~

~~((1)) Review and periodically update the state's economic development strategy, including implementation steps, and performance measures, and perform an annual evaluation of the strategy and the effectiveness of the state's laws, policies, and programs which target economic development;~~

~~((2)) Provide policy, strategic, and programmatic direction to the department of community, trade, and economic development regarding strategies to:~~

~~((a)) Promote business retention, expansion, and creation within the state;~~

~~((b)) Promote the business climate of the state and stimulate increased national and international investment in the state;~~

~~((c)) Promote products and services of the state;~~

~~((d)) Enhance relationships and cooperation between local governments, economic development councils, federal agencies, state agencies, and the legislature;~~

~~((e)) Integrate economic development programs, including work force training, technology transfer, and export assistance; and~~

~~((f)) Make the funds available for economic development purposes more flexible to meet emergent needs and maximize opportunities;~~

~~((3)) Identify policies and programs to assist Washington's small businesses;~~

~~((4)) Assist the department of community, trade, and economic development with procurement and deployment of private funds for business development, retention, expansion, and recruitment as well as other economic development efforts;~~

~~((5)) Meet with the chairs and ranking minority members of the legislative committees from both the house of representatives and the senate overseeing economic development policies; and~~

~~((6)) Make a biennial report to the appropriate committees of the legislature regarding the commission's review of the state's economic development policy, the commission's recommendations, and steps taken by the department of community, trade, and economic development to implement the recommendations. The first report is due by December 31, 2004);~~

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(1) Concentrate its major efforts on planning, coordination, evaluation, policy analysis, and recommending improvements to the state's economic development system using, but not limited to, the "Next Washington" plan and the global competitiveness council recommendations;

(2) Develop and maintain on a biennial basis a state comprehensive plan for economic development, including but not limited to goals, objectives, and priorities for the state economic development system; identify the elements local associate development organizations must include in their countywide economic development plans; and review the state system for consistency with the state comprehensive plan. In developing the state comprehensive plan for economic development, the commission shall use, but may not be limited to: Economic, labor market, and populations trend reports in office of financial management forecasts; the annual state economic climate report prepared by the economic climate council; joint office of financial management and employment security department labor force, industry employment, and occupational forecasts; the results of scientifically based outcome evaluations; the needs of industry associations, industry clusters, businesses, and employees as evidenced in formal surveys and other input;

(3) Establish and maintain an inventory of the programs of the state economic development system and related state programs; perform a biennial assessment of the ongoing and strategic economic development needs of the state; and assess the extent to which the economic development system and related programs represent a consistent, coordinated, efficient, and integrated approach to meet such needs; and

(4) Produce a biennial report to the governor and the legislature on progress by the commission in coordinating the state's economic development system and meeting the other obligations of this chapter, as well as include recommendations for any statutory changes necessary to enhance operational efficiencies or improve coordination.

The commission may delegate to the director any of the functions of this section.

NEW SECTION. Sec. 5. A new section is added to chapter 43.162 RCW to read as follows: Subject to available funds, the Washington state economic development commission may:

(1) Periodically review for consistency with the state comprehensive plan for economic development the policies and plans established for:

(a) Business and technical assistance by the small business development center, the Washington manufacturing service, the Washington technology center, associate development organizations, the department of community, trade, and economic development, and the office of minority and women-owned business enterprises;

(b) Export assistance by the small business export finance assistance center, the international marketing program for agricultural commodities and trade, the department of agriculture, the center for international trade in forest products, associate development organizations, and the department of community, trade, and economic development; and

(c) Infrastructure development by the department of community, trade, and economic development and the department of transportation; and

(2) Review and make recommendations to the office of financial management and the legislature on budget requests and legislative proposals relating to the state economic development system for purposes of consistency with the state comprehensive plan for economic development;

(3) Provide for coordination among the different agencies, organizations, and components of the state economic development system at the state level and at the regional level;

(4) Advocate for the state economic development system and for meeting the needs of industry associations, industry clusters, businesses, and employees;

(5) Identify partners and develop a plan to develop a consistent and reliable database on participation rates, costs, program activities, and outcomes from publicly funded economic development programs in this state by January 1, 2011.

(a) In coordination with the development of the database, the commission shall establish standards for data collection and maintenance for providers in the economic development system in a format that is accessible to use by the commission. The commission shall require a minimum of common core data to be collected by each entity providing economic development services with public funds and shall develop requirements for minimum common core data in consultation with the economic climate council, the office of financial management, and the providers of economic development services;

(b) The commission shall establish minimum common standards and metrics for program evaluation of economic development programs, and monitor such program evaluations; and

(c) The commission shall, beginning no later than January 1, 2012, periodically administer, based on a schedule established by the commission, scientifically based outcome evaluations of the state economic development system including, but not limited to, surveys of industry associations, industry cluster associations, and businesses served by publicly funded economic development programs; matches with employment security department payroll and wage files; and matches with department of revenue tax files; and

(6) Evaluate proposals for expenditure from the economic development strategic reserve account and recommend expenditures from the account.

The commission may delegate to the director any of the functions of this section.

NEW SECTION. Sec. 6. (1) The commission must develop and update a state comprehensive plan for economic development and an initial inventory of economic development programs, as required under section 4 of this act, by June 30, 2008.

(2) Using the information from the inventory, public input, and such other information as it deems appropriate, the commission shall, by September 1, 2008, provide a report with findings, analysis, and recommendations to the governor and the legislature on the appropriate state role in economic development and the appropriate administrative and regional structures for the provision of economic development services. The report shall address how best to organize the state system to ensure that the state's economic development efforts:

(a) Are organized around a clear central mission and aligned with the state's comprehensive plan for economic development;

(b) Are capable of providing focused and flexible responses to changing economic conditions;

(c) Generate greater local capacity to respond to local opportunities and needs;

(d) Face no administrative barriers to efficiency and effectiveness;

(e) Maximize results through partnerships and the use of intermediaries; and

(f) Provide increased accountability to the public, the executive branch, and the legislature.

(3) The report should address the potential value of creating or consolidating specific programs if doing so would be consistent with an agency's core mission, and the potential value of removing specific programs from an agency if the programs are not central to the agency's core mission.

Sec. 7. RCW 43.162.030 and 2003 c 235 s 4 are each amended to read as follows:

~~((1) The Washington state economic development commission shall receive the necessary staff support from the staff resources of the governor, the department of community, trade, and economic development, and other state agencies as appropriate, and within existing resources and operations.~~

~~—(2)) Creation of the Washington state economic development commission shall not be construed to modify any authority or budgetary responsibility of the governor or the department of community, trade, and economic development.~~

Sec. 8. RCW 82.33A.010 and 1998 c 245 s 168 are each amended to read as follows:

(1) The economic climate council is hereby created.

(2) The council shall, in consultation with the Washington economic development commission, select a series of ~~((no more~~

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than ten)) benchmarks that characterize the competitive environment of the state. The benchmarks should be indicators of the cost of doing business; the education and skills of the work force; a sound infrastructure; and the quality of life. In selecting the appropriate benchmarks, the council shall use the following criteria:

(a) The availability of comparative information for other states and countries;

(b) The timeliness with which benchmark information can be obtained; and

(c) The accuracy and validity of the benchmarks in measuring the economic climate indicators named in this section.

(3) Each year the council shall prepare an official state economic climate report on the present status of benchmarks, changes in the benchmarks since the previous report, and the reasons for the changes. The reports shall include current benchmark comparisons with other states and countries, and an analysis of factors related to the benchmarks that may affect the ability of the state to compete economically at the national and international level.

(4) All agencies of state government shall provide to the council immediate access to all information relating to economic climate reports.

Sec. 9. RCW 82.33A.020 and 1996 c 152 s 4 are each amended to read as follows:

~~((+)) The economic climate council shall ((create an advisory committee to assist the council)) consult with the Washington economic development commission in selecting benchmarks and developing economic climate reports and benchmarks. The ((advisory committee)) commission shall provide for a process to ensure public participation in the selection of the benchmarks. ((The advisory committee shall consist of no more than seven members. At least two of the members of the advisory committee shall have experience in and represent business, and at least two of the members shall have experience in and represent labor. All of the members of the advisory committee shall have special expertise and interest in the state's economic climate and competitive strategies. Appointments to the advisory committee shall be recommended by the chair of the council and approved by a two-thirds vote of the council. The chair of the advisory committee shall be selected by the members of the committee.~~

~~—(2) The advisory committee shall meet as determined by the chair of the committee until September 30, 1996, and shall meet at least twice per year thereafter in advance of the economic climate reports due on March 31st and September 30th of each year.~~

~~—(3) Members of the advisory council shall serve without compensation but shall be reimbursed for travel expenses in accordance with RCW 43.03.050 and 43.03.060 while attending meetings of the advisory committee, sessions of the economic climate council, or on official business authorized by the council.)~~

NEW SECTION. Sec. 10. If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2007, in the omnibus appropriations act, this act is null and void."

Correct the title.
and the same are herewith transmitted.

RICHARD NAFZIGER, Chief Clerk

MOTION

Senator Kastama moved that the Senate concur in the House amendment(s) to Second Substitute Senate Bill No. 5995.

Senator Kastama spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Kastama that the Senate concur in the House amendment(s) to Second Substitute Senate Bill No. 5995.

The motion by Senator Kastama carried and the Senate concurred in the House amendment(s) to Second Substitute Senate Bill No. 5995 by voice vote.

The President declared the question before the Senate to be the final passage of Second Substitute Senate Bill No. 5995, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Second Substitute Senate Bill No. 5995, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 1; Excused, 0.

Voting yea: Senators Benton, Berkey, Brandland, Brown, Carrell, Clements, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Tom, Weinstein and Zarelli - 48

Absent: Senator Poulsen - 1

SECOND SUBSTITUTE SENATE BILL NO. 5995, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

RICHARD NAFZIGER, Chief Clerk

MESSAGE FROM THE HOUSE

April 11, 2007

MR. PRESIDENT:

The House has passed SECOND SUBSTITUTE SENATE BILL NO. 6016, with the following amendment: 6016-S2 AMH KAGIH3516.1

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 74.08A.270 and 2002 c 89 s 1 are each amended to read as follows:

(1) Good cause reasons for failure to participate in WorkFirst program components include: (a) Situations where the recipient is a parent or other relative personally providing care for a child under the age of six years, and formal or informal child care, or day care for an incapacitated individual living in the same home as a dependent child, is necessary for an individual to participate or continue participation in the program or accept employment, and such care is not available, and the department fails to provide such care; or (b) the recipient is a parent with a child under the age of one year ~~((, except that at the time a child reaches the age of three months, the recipient is required to participate in one of the following for up to twenty hours per week:~~

~~—(i) Instruction or training which has the purpose of improving parenting skills or child well-being;~~

~~—(ii) Preemployment or job readiness training;~~

~~—(iii) Course study leading to a high school diploma or GED;~~

~~or~~

~~—(iv) Volunteering in a child care facility licensed under chapter 74.15 RCW so long as the child care facility agrees to accept the recipient as a volunteer and the child without compensation while the parent is volunteering at the facility. The volunteer recipient and his or her child shall not be counted for the purposes of determining licensed capacity or the staff to child ratio of the facility).~~

(2) A parent claiming a good cause exemption from WorkFirst participation under subsection (1)(b) of this section may be required to participate in one or more of the following, up to a maximum total of twenty hours per week, if such treatment, services, or training is indicated by the comprehensive evaluation or other assessment:

(a) Mental health treatment;

(b) Alcohol or drug treatment;

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(c) Domestic violence services; or
(d) Parenting education or parenting skills training, if available.

(3) The department shall: (a) Work with a parent claiming a good cause exemption under subsection (1)(b) of this section to identify and access programs and services designed to improve parenting skills and promote child well-being, including but not limited to home visitation programs and services; and (b) provide information on the availability of home visitation services to temporary assistance for needy families caseworkers, who shall inform clients of the availability of the services. If desired by the client, the caseworker shall facilitate appropriate referrals to providers of home visitation services.

(4) Nothing in this section shall prevent a recipient from participating ((fully)) in the WorkFirst program on a voluntary basis. ((A recipient who chooses to participate fully in the WorkFirst program shall be considered to be fulfilling the requirements of this section.

(3) For any recipient who claims a good cause reason for failure to participate in the WorkFirst program based on the fact that the recipient has a child under the age of one year, the department shall, within existing resources, conduct an assessment of the recipient within ninety days and before a job search component is initiated in order to determine if the recipient has any specific service needs or employment barriers. The assessment may include identifying the need for substance abuse treatment, mental health treatment, or domestic violence services, and shall be used in developing the recipient's individual responsibility plan.

(4) A parent may only receive the exemption under subsection (1)(b) of this section one time, for one child.)

(5) A parent is eligible for a good cause exemption under subsection (1)(b) of this section for a maximum total of twelve months over the parent's lifetime."
 and the same are herewith transmitted.

RICHARD NAFZIGER, Chief Clerk

MOTION

Senator Regala moved that the Senate concur in the House amendment(s) to Second Substitute Senate Bill No. 6016.

Senator Regala spoke in favor of the motion.

Senator Zarelli spoke against the motion.

The President declared the question before the Senate to be the motion by Senator Regala that the Senate concur in the House amendment(s) to Second Substitute Senate Bill No. 6016.

The motion by Senator Regala carried and the Senate concurred in the House amendment(s) to Second Substitute Senate Bill No. 6016 by voice vote.

The President declared the question before the Senate to be the final passage of Second Substitute Senate Bill No. 6016, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Second Substitute Senate Bill No. 6016, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 30; Nays, 18; Absent, 1; Excused, 0.

Voting yea: Senators Berkey, Brown, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hobbs, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, Murray, Oemig, Prentice, Pridemore, Rasmussen, Regala, Rockefeller, Shin, Spanel, Tom and Weinstein - 30

Voting nay: Senators Benton, Brandland, Carrell, Clements, Delvin, Hewitt, Holmquist, Honeyford, McCaslin, Morton, Parlette, Pflug, Roach, Schoesler, Sheldon, Stevens, Swecker and Zarelli - 18

Absent: Senator Poulsen - 1

SECOND SUBSTITUTE SENATE BILL NO. 6016, as amended by the House, having received the constitutional

majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

On motion of Senator Regala, Senators Kline, Poulsen and Pridemore were excused.

MESSAGE FROM THE HOUSE

April 6, 2007

MR. PRESIDENT:

The House has passed SENATE BILL NO. 6119, with the following amendment: 6119 AMH APP H3301.1

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 43.43.944 and 2005 c 518 s 929 are each amended to read as follows:

(1) The fire service training account is hereby established in the state treasury. The fund shall consist of:

(a) All fees received by the Washington state patrol for fire service training;

(b) All grants and bequests accepted by the Washington state patrol under RCW 43.43.940; ((and))

(c) Twenty percent of all moneys received by the state on fire insurance premiums; and

(d) General fund--state moneys appropriated into the account by the legislature.

(2) Moneys in the account may be appropriated only for fire service training. ((During the 2005-2007 fiscal biennium, the legislature may appropriate funds from this account for school fire prevention activities within the Washington state patrol.)) The state patrol may use amounts appropriated from the fire service training account under this section to contract with the Washington state firefighters apprenticeship trust for the operation of the firefighter joint apprenticeship training program. The contract may call for payments on a monthly basis.

(3) Any general fund--state moneys appropriated into the account shall be allocated solely to the firefighter joint apprenticeship training program. The Washington state patrol may contract with outside entities for the administration and delivery of the firefighter joint apprenticeship training program.

NEW SECTION. Sec. 2. If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2007, in the omnibus appropriations act, this act is null and void."

Correct the title.

and the same are herewith transmitted.

RICHARD NAFZIGER, Chief Clerk

MOTION

Senator Eide moved that the Senate concur in the House amendment(s) to Senate Bill No. 6119.

Senator Eide spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Eide that the Senate concur in the House amendment(s) to Senate Bill No. 6119.

The motion by Senator Eide carried and the Senate concurred in the House amendment(s) to Senate Bill No. 6119 by voice vote.

The President declared the question before the Senate to be the final passage of Senate Bill No. 6119, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 6119, as amended by the House, and the bill passed the

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Senate by the following vote: Yeas, 46; Nays, 0; Absent, 1; Excused, 2.

Voting yea: Senators Benton, Berkey, Brandland, Brown, Carrell, Clements, Delvin, Eide, Fairley, Franklin, Fraser, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kohl-Welles, Marr, McAuliffe, McCaslin, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Tom, Weinstein and Zarelli - 46

Absent: Senator Hargrove - 1

Excused: Senators Kline and Poulsen - 2

SENATE BILL NO. 6119, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

On motion of Senator Regala, Senator Hargrove was excused.

MESSAGE FROM THE HOUSE

April 9, 2007

MR. PRESIDENT:

The House has passed SUBSTITUTE SENATE JOINT MEMORIAL NO. 8011, with the following amendment: 8011-S AMH ED MCLA 207

On page 3, at the beginning of line 4, insert "WHEREAS, Career and technical education teachers are often hired from industries in which a bachelor's degree is not the preferred level of certification; and

WHEREAS, The Washington State Legislature passed legislation in 2006 that recognizes credit for core academic subjects learned through career and technical education, but if the teacher does not have a bachelor's degree the school district must report them to parents as "not highly qualified," which places these teachers at a disadvantage in school districts; and

WHEREAS, Positive changes in the definition of highly qualified teachers will assist in the awarding of equivalency credits and remove the stigma surrounding industry-certified teachers; and"

and the same are herewith transmitted.

RICHARD NAFZIGER, Chief Clerk

MOTION

Senator McAuliffe moved that the Senate concur in the House amendment(s) to Substitute Senate Joint Memorial No. 8011.

Senator McAuliffe spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator McAuliffe that the Senate concur in the House amendment(s) to Substitute Senate Joint Memorial No. 8011.

The motion by Senator McAuliffe carried and the Senate concurred in the House amendment(s) to Substitute Senate Joint Memorial No. 8011 by voice vote.

The President declared the question before the Senate to be the final passage of Substitute Senate Joint Memorial No. 8011, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Joint Memorial No. 8011, as amended by the House, and the memorial passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 0; Excused, 3.

Voting yea: Senators Benton, Berkey, Brandland, Brown, Carrell, Clements, Delvin, Eide, Fairley, Franklin, Fraser, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kohl-Welles, Marr, McAuliffe, McCaslin, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Tom, Weinstein and Zarelli - 46

Excused: Senators Hargrove, Kline and Poulsen - 3

SUBSTITUTE SENATE JOINT MEMORIAL NO. 8011, as amended by the House, having received the constitutional majority, was declared passed.

MESSAGE FROM THE HOUSE

April 16, 2007

MR. PRESIDENT:

The House has passed as amended by the Senate the following bills:

HOUSE BILL NO. 1418,
ENGROSSED HOUSE BILL NO. 2113,
SUBSTITUTE HOUSE BILL NO. 2304,
ENGROSSED SUBSTITUTE HOUSE BILL NO. 2352,
SUBSTITUTE HOUSE BILL NO. 2394,

and the same are herewith transmitted.

RICHARD NAFZIGER, Chief Clerk

MOTION

On motion of Senator Eide, the Senate advanced to the sixth order of business.

MOTION

On motion of Rockefeller, the rules were suspended, the Senate, with a single vote, considered the confirmations of Gubernatorial Appointment and the vote of the Senate was recorded as a separate vote for each appointment.

SECOND READING
CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

MOTION

Senator Kauffman moved that Gubernatorial Appointment No. 9028, Arlista D. Holman; Gubernatorial Appointment No. 9093, Larry Brown; and Gubernatorial Appointment No. 9233, Lawton Case as members of the Board of Trustees, Green River Community College District No. 10, be confirmed.

Senator Kauffman spoke in favor of the motion.

APPOINTMENT OF ARLISTA D. HOLMAN

The President declared the question before the Senate to be the confirmation of Gubernatorial Appointment No. 9028, Arlista D. Holman, Gubernatorial Appointment No. 9093, Larry Brown and Gubernatorial Appointment No. 9233, Lawton Case as members of the Board of Trustees, Green River Community College District No. 10.

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9028, Arlista D. Holman as a member of the Board of Trustees, Green River Community College District No. 10 and the appointment was confirmed by the following vote: Yeas, 45; Nays, 0; Absent, 1; Excused, 3.

Voting yea: Senators Benton, Berkey, Brandland, Brown, Carrell, Clements, Delvin, Eide, Franklin, Fraser, Hatfield,

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Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kohl-Welles, Marr, McAuliffe, McCaslin, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Tom, Weinstein and Zarelli - 45

Absent: Senator Fairley - 1

Excused: Senators Hargrove, Kline and Poulsen - 3

APPOINTMENT OF LARRY BROWN

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9093, Larry Brown as a member of the Green River Community College District No. 10 and the appointment was confirmed by the following vote: Yeas, 45; Nays, 0; Absent, 1; Excused, 3.

Voting yea: Senators Benton, Berkey, Brandland, Brown, Carrell, Clements, Delvin, Eide, Franklin, Fraser, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kohl-Welles, Marr, McAuliffe, McCaslin, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Tom, Weinstein and Zarelli - 45

Absent: Senator Fairley - 1

Excused: Senators Hargrove, Kline and Poulsen - 3

APPOINTMENT OF LAWTON CASE

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9233, Lawton Case as a member of the Green River Community College District No. 10 and the appointment was confirmed by the following vote: Yeas, 45; Nays, 0; Absent, 1; Excused, 3.

Voting yea: Senators Benton, Berkey, Brandland, Brown, Carrell, Clements, Delvin, Eide, Franklin, Fraser, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kohl-Welles, Marr, McAuliffe, McCaslin, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Swecker, Tom, Weinstein and Zarelli - 45

Absent: Senator Fairley - 1

Excused: Senators Hargrove, Kline and Poulsen - 3

Gubernatorial Appointment No. 9028, Arlista D. Holman; Gubernatorial Appointment No. 9093, Larry Brown and Gubernatorial Appointment No. 9233, Lawton Case having received the constitutional majority were declared confirmed as members of the Board of Trustees, Green River Community College District No. 10.

MOTION

At 3:31 p.m., on motion of Senator Eide, the Senate was declared to be at ease subject to the call of the President.

The Senate was called to order at 4:43 p.m. by President Owen.

MOTION

On motion of Senator Eide, the Senate reverted to the fourth order of business.

MESSAGE FROM THE HOUSE

April 4, 2007

MR. PRESIDENT:

The House has passed SUBSTITUTE SENATE BILL NO. 5288, with the following amendment: 5288-S AMH ENGR H3181.E

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 28A.300.285 and 2002 c 207 s 2 are each amended to read as follows:

(1) By August 1, 2003, each school district shall adopt or amend if necessary a policy, within the scope of its authority, that prohibits the harassment, intimidation, or bullying of any student. It is the responsibility of each school district to share this policy with parents or guardians, students, volunteers, and school employees.

(2) "Harassment, intimidation, or bullying" means any intentional electronic, written, verbal, or physical act, including but not limited to one shown to be motivated by any characteristic in RCW 9A.36.080(3), or other distinguishing characteristics, when the intentional electronic, written, verbal, or physical act:

(a) Physically harms a student or damages the student's property; or

(b) Has the effect of substantially interfering with a student's education; or

(c) Is so severe, persistent, or pervasive that it creates an intimidating or threatening educational environment; or

(d) Has the effect of substantially disrupting the orderly operation of the school.

Nothing in this section requires the affected student to actually possess a characteristic that is a basis for the harassment, intimidation, or bullying.

(3) The policy should be adopted or amended through a process that includes representation of parents or guardians, school employees, volunteers, students, administrators, and community representatives. It is recommended that each such policy emphasize positive character traits and values, including the importance of civil and respectful speech and conduct, and the responsibility of students to comply with the district's policy prohibiting harassment, intimidation, or bullying.

(4) By August 1, 2002, the superintendent of public instruction, in consultation with representatives of parents, school personnel, and other interested parties, shall provide to school districts and educational service districts a model harassment, intimidation, and bullying prevention policy and training materials on the components that should be included in any district policy. Training materials shall be disseminated in a variety of ways, including workshops and other staff developmental activities, and through the office of the superintendent of public instruction's web site, with a link to the safety center web page. On the web site:

(a) The office of the superintendent of public instruction shall post its model policy, recommended training materials, and instructional materials;

(b) The office of the superintendent of public instruction has the authority to update with new technologies access to this information in the safety center, to the extent resources are made available; and

(c) Individual school districts shall have direct access to the safety center web site to post a brief summary of their policies, programs, partnerships, vendors, and instructional and training materials, and to provide a link to the school district's web site for further information.

(5) The Washington state school directors association, with the assistance of the office of the superintendent of public instruction, shall convene an advisory committee to develop a model policy prohibiting acts of harassment, intimidation, or bullying that are conducted via electronic means by a student. In developing the policy, the Washington state school directors association shall review current and ongoing United States and Washington state case law concerning the first amendment rights of students, including but not limited to *Frederick v. Morse*, 439 F.3d 1114 (9th Cir. 2006), cert. granted, 127 S. Ct. 722 (2006). The policy shall include a requirement that materials meant to educate parents and students about the seriousness of cyberbullying be disseminated to parents or made available on the school district's web site. The school directors

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association and the advisory committee shall develop sample materials for school districts to disseminate, which shall also include information on responsible and safe internet use as well as what options are available if a student is being bullied via electronic means, including but not limited to, reporting threats to local police and when to involve school officials, the internet service provider, or phone service provider. The school directors association shall submit the model policy and sample materials, along with a recommendation for local adoption, to the governor and the legislature and shall post the model policy and sample materials on its web site by January 1, 2008. Each school district board of directors shall establish its own policy by August 1, 2008.

(6) As used in this section, "electronic" or "electronic means" means any communication where there is the transmission of information by wire, radio, optical cable, electromagnetic, or other similar means."

Correct the title.
and the same are herewith transmitted.

RICHARD NAFZIGER, Chief Clerk

MOTION

Senator Kohl-Welles moved that the Senate refuse to concur in the House amendment(s) to Substitute Senate Bill No. 5288 and ask the House to recede therefrom.

Senators Kohl-Welles spoke in favor of the motion.

The President declared the question before the Senate to be motion by Senator Kohl-Welles that the Senate refuse to concur in the House amendment(s) to Substitute Senate Bill No. 5288 and ask the House to recede therefrom.

The motion by Senator Kohl-Welles carried and the Senate refused to concur in the House amendment(s) to Substitute Senate Bill No. 5288 and asked the House to recede therefrom.

MESSAGE FROM THE HOUSE

April 4, 2007

MR. PRESIDENT:

The House has passed ENGROSSED SUBSTITUTE SENATE BILL NO. 5312, with the following amendment: 5312-S.E AMH ENGR H3210.E

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. DEFINITIONS. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Commercial account" means a relationship between a scrap metal business and a commercial enterprise that is ongoing and properly documented under section 3 of this act.

(2) "Commercial enterprise" means a corporation, partnership, limited liability company, association, state agency, political subdivision of the state, public corporation, or any other legal or commercial entity.

(3) "Commercial metal property" means: Utility access covers; street light poles and fixtures; road and bridge guardrails; highway or street signs; water meter covers; traffic directional and control signs; traffic light signals; any metal property marked with the name of a commercial enterprise, including but not limited to a telephone, commercial mobile radio services, cable, electric, water, natural gas, or other utility, or railroad; unused or undamaged building construction materials consisting of copper pipe, tubing, or wiring, or aluminum wire, siding, downspouts, or gutters; aluminum or stainless steel fence panels made from one inch tubing, forty-two inches high with four inch gaps; aluminum decking, bleachers, or risers; historical markers; statue plaques; grave markers and funeral vases; or agricultural irrigation wheels, sprinkler heads, and pipes.

(4) "Nonferrous metal property" means metal property for which the value of the metal property is derived from the property's content of copper, brass, aluminum, bronze, lead,

zinc, nickel, and their alloys. "Nonferrous metal property" does not include precious metals.

(5) "Precious metals" means gold, silver, and platinum.

(6) "Record" means a paper, electronic, or other method of storing information.

(7) "Scrap metal business" means a scrap metal supplier, scrap metal recycling center, and scrap metal processor.

(8) "Scrap metal processor" means a person with a current business license that conducts business from a permanent location, that is engaged in the business of purchasing or receiving nonferrous metal property and commercial metal property for the purpose of altering the metal in preparation for its use as feedstock in the manufacture of new products, and that maintains a hydraulic bailer, shearing device, or shredding device for recycling.

(9) "Scrap metal recycling center" means a person with a current business license that is engaged in the business of purchasing or receiving nonferrous metal property and commercial metal property for the purpose of aggregation and sale to another scrap metal business and that maintains a fixed place of business within the state.

(10) "Scrap metal supplier" means a person with a current business license that is engaged in the business of purchasing or receiving nonferrous metal property for the purpose of aggregation and sale to a scrap metal recycling center or scrap metal processor and that does not maintain a fixed business location in the state.

(11) "Transaction" means a pledge, or the purchase of, or the trade of any item of nonferrous metal property by a scrap metal business from a member of the general public. "Transaction" does not include donations or the purchase or receipt of nonferrous metal property by a scrap metal business from a commercial enterprise, from another scrap metal business, or from a duly authorized employee or agent of the commercial enterprise or scrap metal business.

NEW SECTION. Sec. 2. RECORDS REQUIRED FOR PURCHASING NONFERROUS METAL PROPERTY FROM THE GENERAL PUBLIC. (1) At the time of a transaction, every scrap metal business doing business in this state shall produce wherever that business is conducted an accurate and legible record of each transaction involving nonferrous metal property. This record must be written in the English language, documented on a standardized form or in electronic form, and contain the following information:

(a) The signature of the person with whom the transaction is made;

(b) The time, date, location, and value of the transaction;

(c) The name of the employee representing the scrap metal business in the transaction;

(d) The name, street address, and telephone number of the person with whom the transaction is made;

(e) The license plate number and state of issuance of the license plate on the motor vehicle used to deliver the nonferrous metal property subject to the transaction;

(f) A description of the motor vehicle used to deliver the nonferrous metal property subject to the transaction;

(g) The current driver's license number or other government-issued picture identification card number of the seller or a copy of the seller's government-issued picture identification card; and

(h) A description of the predominant types of nonferrous metal property subject to the transaction, including the property's classification code as provided in the institute of scrap recycling industries scrap specifications circular, 2006, and weight, quantity, or volume.

(2) For every transaction that involves nonferrous metal property, every scrap metal business doing business in the state shall require the person with whom a transaction is being made to sign a declaration. The declaration may be included as part of the transactional record required under subsection (1) of this section, or on a receipt for the transaction. The declaration must state substantially the following:

"I, the undersigned, affirm under penalty of law that the property that is subject to this transaction is not to the best of my knowledge stolen property."

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The declaration must be signed and dated by the person with whom the transaction is being made. An employee of the scrap metal business must witness the signing and dating of the declaration and sign the declaration accordingly before any transaction may be consummated.

(3) The record and declaration required under this section must be open to the inspection of any commissioned law enforcement officer of the state or any of its political subdivisions at all times during the ordinary hours of business, or at reasonable times if ordinary hours of business are not kept, and must be maintained wherever that business is conducted for one year following the date of the transaction.

NEW SECTION. Sec. 3. REQUIREMENTS FOR PURCHASING OR RECEIVING NONFERROUS METAL PROPERTY FROM THE GENERAL PUBLIC. (1) No scrap metal business may enter into a transaction to purchase or receive nonferrous metal property from any person who cannot produce at least one piece of current government-issued picture identification, including a valid driver's license or identification card issued by any state.

(2) No scrap metal business may purchase or receive commercial metal property unless the seller: (a) Has a commercial account with the scrap metal business; (b) can prove ownership of the property by producing written documentation that the seller is the owner of the property; or (c) can produce written documentation that the seller is an employee or agent authorized to sell the property on behalf of a commercial enterprise.

(3) No scrap metal business may enter into a transaction to purchase or receive metallic wire that was burned in whole or in part to remove insulation unless the seller can produce written proof to the scrap metal business that the wire was lawfully burned.

(4) No transaction involving nonferrous metal property valued at greater than thirty dollars may be made in cash or with any person who does not provide a street address under the requirements of section 2 of this act. For transactions valued at greater than thirty dollars, the person with whom the transaction is being made may only be paid by a nontransferable check, mailed by the scrap metal business to a street address provided under section 2 of this act, no earlier than ten days after the transaction was made. A transaction occurs on the date provided in the record required under section 2 of this act.

(5) No scrap metal business may purchase or receive beer kegs from anyone except a manufacturer of beer kegs or licensed brewery.

NEW SECTION. Sec. 4. RECORD FOR COMMERCIAL ACCOUNTS. (1) Every scrap metal business must create and maintain a permanent record with a commercial enterprise, including another scrap metal business, in order to establish a commercial account. That record, at a minimum, must include the following information:

(a) The full name of the commercial enterprise or commercial account;

(b) The business address and telephone number of the commercial enterprise or commercial account; and

(c) The full name of the person employed by the commercial enterprise who is authorized to deliver nonferrous metal property and commercial metal property to the scrap metal business.

(2) The record maintained by a scrap metal business for a commercial account must document every purchase or receipt of nonferrous metal property and commercial metal property from the commercial enterprise. The documentation must include, at a minimum, the following information:

(a) The time, date, and value of the property being purchased or received;

(b) A description of the predominant types of property being purchased or received; and

(c) The signature of the person delivering the property to the scrap metal business.

NEW SECTION. Sec. 5. REPORTING TO LAW ENFORCEMENT. (1) Upon request by any commissioned law enforcement officer of the state or any of its political subdivisions, every scrap metal business shall furnish a full,

true, and correct transcript of the records from the purchase or receipt of nonferrous metal property and commercial metal property involving a specific individual, vehicle, or item of nonferrous metal property or commercial metal property. This information may be transmitted within a specified time of not less than two business days to the applicable law enforcement agency electronically, by facsimile transmission, or by modem or similar device, or by delivery of computer disk subject to the requirements of, and approval by, the chief of police or the county's chief law enforcement officer.

(2) If the scrap metal business has good cause to believe that any nonferrous metal property or commercial metal property in his or her possession has been previously lost or stolen, the scrap metal business shall promptly report that fact to the applicable commissioned law enforcement officer of the state, the chief of police, or the county's chief law enforcement officer, together with the name of the owner, if known, and the date when and the name of the person from whom it was received.

NEW SECTION. Sec. 6. PRESERVING EVIDENCE OF METAL THEFT. (1) Following notification, either verbally or in writing, from a commissioned law enforcement officer of the state or any of its political subdivisions that an item of nonferrous metal property or commercial metal property has been reported as stolen, a scrap metal business shall hold that property intact and safe from alteration, damage, or commingling, and shall place an identifying tag or other suitable identification upon the property. The scrap metal business shall hold the property for a period of time as directed by the applicable law enforcement agency up to a maximum of ten business days.

(2) A commissioned law enforcement officer of the state or any of its political subdivisions shall not place on hold any item of nonferrous metal property or commercial metal property unless that law enforcement agency reasonably suspects that the property is a lost or stolen item. Any hold that is placed on the property must be removed within ten business days after the property on hold is determined not to be stolen or lost and the property must be returned to the owner or released.

NEW SECTION. Sec. 7. UNLAWFUL VIOLATIONS. It is a gross misdemeanor under chapter 9A.20 RCW for:

(1) Any person to deliberately remove, alter, or obliterate any manufacturer's make, model, or serial number, personal identification number, or identifying marks engraved or etched upon an item of nonferrous metal property or commercial metal property in order to deceive a scrap metal business;

(2) Any scrap metal business to enter into a transaction to purchase or receive any nonferrous metal property or commercial metal property where the manufacturer's make, model, or serial number, personal identification number, or identifying marks engraved or etched upon the property have been deliberately and conspicuously removed, altered, or obliterated;

(3) Any person to knowingly make, cause, or allow to be made any false entry or misstatement of any material matter in any book, record, or writing required to be kept under this chapter;

(4) Any scrap metal business to enter into a transaction to purchase or receive nonferrous metal property or commercial metal property from any person under the age of eighteen years or any person who is discernibly under the influence of intoxicating liquor or drugs;

(5) Any scrap metal business to enter into a transaction to purchase or receive nonferrous metal property or commercial metal property with anyone whom the scrap metal business has been informed by a law enforcement agency to have been convicted of a crime involving drugs, burglary, robbery, theft, or possession of or receiving stolen property, manufacturing, delivering, or possessing with intent to deliver methamphetamine, or possession of ephedrine or any of its salts or isomers or salts of isomers, pseudoephedrine or any of its salts or isomers or salts of isomers, or anhydrous ammonia with intent to manufacture methamphetamine within the past ten years whether the person is acting in his or her own behalf or as the agent of another;

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(6) Any person to sign the declaration required under section 2 of this act knowing that the nonferrous metal property subject to the transaction is stolen. The signature of a person on the declaration required under section 2 of this act constitutes evidence of intent to defraud a scrap metal business if that person is found to have known that the nonferrous metal property subject to the transaction was stolen;

(7) Any scrap metal business to possess commercial metal property that was not lawfully purchased or received under the requirements of this chapter; or

(8) Any scrap metal business to engage in a series of transactions valued at less than thirty dollars with the same seller for the purposes of avoiding the requirements of section 3(4) of this act.

NEW SECTION. Sec. 8. CIVIL PENALTIES. (1) Each violation of the requirements of this chapter that are not subject to the criminal penalties under section 7 of this act shall be punishable, upon conviction, by a fine of not more than one thousand dollars.

(2) Within two years of being convicted of a violation of any of the requirements of this chapter that are not subject to the criminal penalties under section 7 of this act, each subsequent violation shall be punishable, upon conviction, by a fine of not more than two thousand dollars.

NEW SECTION. Sec. 9. EXEMPTIONS. The provisions of this chapter do not apply to transactions conducted by the following:

(1) Motor vehicle dealers licensed under chapter 46.70 RCW;

(2) Vehicle wreckers or hulk haulers licensed under chapter 46.79 or 46.80 RCW;

(3) Persons in the business of operating an automotive repair facility as defined under RCW 46.71.011; and

(4) Persons in the business of buying or selling empty food and beverage containers, including metal food and beverage containers.

NEW SECTION. Sec. 10. A new section is added to chapter 9.94A RCW to read as follows:

(1) In a prosecution for theft in the first or second degree, the prosecution may file a special allegation of disproportionate impact when sufficient admissible evidence exists, which, when considered with the most plausible, reasonably foreseeable defense that could be raised under the evidence, would justify a finding by a reasonable and objective fact-finder that the damage to the victim greatly exceeds the value of the stolen property.

(2) Once a special allegation has been made under this section, the state has the burden to prove beyond a reasonable doubt that the damage to the victim greatly exceeds the value of the stolen property. If a jury is had, the jury shall, if it finds the defendant guilty, also find a special verdict as to whether the damage to the victim greatly exceeds the value of the stolen property. If no jury is had, the court shall make a finding of fact as to whether the damage to the victim greatly exceeds the value of the stolen property.

(3) For the purposes of this section, damage to the victim greatly exceeds the value of the stolen property when the replacement cost of the stolen item is more than three times the value of the stolen item, or the theft of the item creates a public hazard.

NEW SECTION. Sec. 11. A new section is added to chapter 9.94A RCW to read as follows:

(1) In a prosecution for possessing stolen property in the first or second degree, the prosecution may file a special allegation of disproportionate impact when sufficient admissible evidence exists, which, when considered with the most plausible, reasonably foreseeable defense that could be raised under the evidence, would justify a finding by a reasonable and objective fact-finder that the damage to the victim from whom the property was stolen greatly exceeds the value of the stolen property.

(2) Once a special allegation has been made under this section, the state has the burden to prove beyond a reasonable doubt that the damage to the victim from whom the property was stolen greatly exceeds the value of the stolen property. If a jury

is had, the jury shall, if it finds the defendant guilty, also find a special verdict as to whether the damage to the victim from whom the property was stolen greatly exceeds the value of the stolen property. If no jury is had, the court shall make a finding of fact as to whether the damage to the victim from whom the property was stolen greatly exceeds the value of the stolen property.

(3) For the purposes of this section, damage to the victim from whom the property was stolen greatly exceeds the value of the stolen property when the replacement cost of the stolen item is more than three times the value of the stolen item, or the theft of the item creates a public hazard.

Sec. 12. RCW 9.94A.533 and 2006 c 339 s 301 and 2006 c 123 s 1 are each reenacted and amended to read as follows:

(1) The provisions of this section apply to the standard sentence ranges determined by RCW 9.94A.510 or 9.94A.517.

(2) For persons convicted of the anticipatory offenses of criminal attempt, solicitation, or conspiracy under chapter 9A.28 RCW, the standard sentence range is determined by locating the sentencing grid sentence range defined by the appropriate offender score and the seriousness level of the completed crime, and multiplying the range by seventy-five percent.

(3) The following additional times shall be added to the standard sentence range for felony crimes committed after July 23, 1995, if the offender or an accomplice was armed with a firearm as defined in RCW 9.41.010 and the offender is being sentenced for one of the crimes listed in this subsection as eligible for any firearm enhancements based on the classification of the completed felony crime. If the offender is being sentenced for more than one offense, the firearm enhancement or enhancements must be added to the total period of confinement for all offenses, regardless of which underlying offense is subject to a firearm enhancement. If the offender or an accomplice was armed with a firearm as defined in RCW 9.41.010 and the offender is being sentenced for an anticipatory offense under chapter 9A.28 RCW to commit one of the crimes listed in this subsection as eligible for any firearm enhancements, the following additional times shall be added to the standard sentence range determined under subsection (2) of this section based on the felony crime of conviction as classified under RCW 9A.28.020:

(a) Five years for any felony defined under any law as a class A felony or with a statutory maximum sentence of at least twenty years, or both, and not covered under (f) of this subsection;

(b) Three years for any felony defined under any law as a class B felony or with a statutory maximum sentence of ten years, or both, and not covered under (f) of this subsection;

(c) Eighteen months for any felony defined under any law as a class C felony or with a statutory maximum sentence of five years, or both, and not covered under (f) of this subsection;

(d) If the offender is being sentenced for any firearm enhancements under (a), (b), and/or (c) of this subsection and the offender has previously been sentenced for any deadly weapon enhancements after July 23, 1995, under (a), (b), and/or (c) of this subsection or subsection (4)(a), (b), and/or (c) of this section, or both, all firearm enhancements under this subsection shall be twice the amount of the enhancement listed;

(e) Notwithstanding any other provision of law, all firearm enhancements under this section are mandatory, shall be served in total confinement, and shall run consecutively to all other sentencing provisions, including other firearm or deadly weapon enhancements, for all offenses sentenced under this chapter. However, whether or not a mandatory minimum term has expired, an offender serving a sentence under this subsection may be granted an extraordinary medical placement when authorized under RCW 9.94A.728(4);

(f) The firearm enhancements in this section shall apply to all felony crimes except the following: Possession of a machine gun, possessing a stolen firearm, drive-by shooting, theft of a firearm, unlawful possession of a firearm in the first and second degree, and use of a machine gun in a felony;

(g) If the standard sentence range under this section exceeds the statutory maximum sentence for the offense, the statutory maximum sentence shall be the presumptive sentence unless the

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offender is a persistent offender. If the addition of a firearm enhancement increases the sentence so that it would exceed the statutory maximum for the offense, the portion of the sentence representing the enhancement may not be reduced.

(4) The following additional times shall be added to the standard sentence range for felony crimes committed after July 23, 1995, if the offender or an accomplice was armed with a deadly weapon other than a firearm as defined in RCW 9A.01.010 and the offender is being sentenced for one of the crimes listed in this subsection as eligible for any deadly weapon enhancements based on the classification of the completed felony crime. If the offender is being sentenced for more than one offense, the deadly weapon enhancement or enhancements must be added to the total period of confinement for all offenses, regardless of which underlying offense is subject to a deadly weapon enhancement. If the offender or an accomplice was armed with a deadly weapon other than a firearm as defined in RCW 9A.01.010 and the offender is being sentenced for an anticipatory offense under chapter 9A.28 RCW to commit one of the crimes listed in this subsection as eligible for any deadly weapon enhancements, the following additional times shall be added to the standard sentence range determined under subsection (2) of this section based on the felony crime of conviction as classified under RCW 9A.28.020:

(a) Two years for any felony defined under any law as a class A felony or with a statutory maximum sentence of at least twenty years, or both, and not covered under (f) of this subsection;

(b) One year for any felony defined under any law as a class B felony or with a statutory maximum sentence of ten years, or both, and not covered under (f) of this subsection;

(c) Six months for any felony defined under any law as a class C felony or with a statutory maximum sentence of five years, or both, and not covered under (f) of this subsection;

(d) If the offender is being sentenced under (a), (b), and/or (c) of this subsection for any deadly weapon enhancements and the offender has previously been sentenced for any deadly weapon enhancements after July 23, 1995, under (a), (b), and/or (c) of this subsection or subsection (3)(a), (b), and/or (c) of this section, or both, all deadly weapon enhancements under this subsection shall be twice the amount of the enhancement listed;

(e) Notwithstanding any other provision of law, all deadly weapon enhancements under this section are mandatory, shall be served in total confinement, and shall run consecutively to all other sentencing provisions, including other firearm or deadly weapon enhancements, for all offenses sentenced under this chapter. However, whether or not a mandatory minimum term has expired, an offender serving a sentence under this subsection may be granted an extraordinary medical placement when authorized under RCW 9.94A.728(4);

(f) The deadly weapon enhancements in this section shall apply to all felony crimes except the following: Possession of a machine gun, possessing a stolen firearm, drive-by shooting, theft of a firearm, unlawful possession of a firearm in the first and second degree, and use of a machine gun in a felony;

(g) If the standard sentence range under this section exceeds the statutory maximum sentence for the offense, the statutory maximum sentence shall be the presumptive sentence unless the offender is a persistent offender. If the addition of a deadly weapon enhancement increases the sentence so that it would exceed the statutory maximum for the offense, the portion of the sentence representing the enhancement may not be reduced.

(5) The following additional times shall be added to the standard sentence range if the offender or an accomplice committed the offense while in a county jail or state correctional facility and the offender is being sentenced for one of the crimes listed in this subsection. If the offender or an accomplice committed one of the crimes listed in this subsection while in a county jail or state correctional facility, and the offender is being sentenced for an anticipatory offense under chapter 9A.28 RCW to commit one of the crimes listed in this subsection, the following additional times shall be added to the standard sentence range determined under subsection (2) of this section:

(a) Eighteen months for offenses committed under RCW 69.50.401(2) (a) or (b) or 69.50.410;

(b) Fifteen months for offenses committed under RCW 69.50.401(2) (c), (d), or (e);

(c) Twelve months for offenses committed under RCW 69.50.4013.

For the purposes of this subsection, all of the real property of a state correctional facility or county jail shall be deemed to be part of that facility or county jail.

(6) An additional twenty-four months shall be added to the standard sentence range for any ranked offense involving a violation of chapter 69.50 RCW if the offense was also a violation of RCW 69.50.435 or 9.94A.605. All enhancements under this subsection shall run consecutively to all other sentencing provisions, for all offenses sentenced under this chapter.

(7) An additional two years shall be added to the standard sentence range for vehicular homicide committed while under the influence of intoxicating liquor or any drug as defined by RCW 46.61.502 for each prior offense as defined in RCW 46.61.5055.

(8)(a) The following additional times shall be added to the standard sentence range for felony crimes committed on or after July 1, 2006, if the offense was committed with sexual motivation, as that term is defined in RCW 9.94A.030. If the offender is being sentenced for more than one offense, the sexual motivation enhancement must be added to the total period of total confinement for all offenses, regardless of which underlying offense is subject to a sexual motivation enhancement. If the offender committed the offense with sexual motivation and the offender is being sentenced for an anticipatory offense under chapter 9A.28 RCW, the following additional times shall be added to the standard sentence range determined under subsection (2) of this section based on the felony crime of conviction as classified under RCW 9A.28.020:

(i) Two years for any felony defined under the law as a class A felony or with a statutory maximum sentence of at least twenty years, or both;

(ii) Eighteen months for any felony defined under any law as a class B felony or with a statutory maximum sentence of ten years, or both;

(iii) One year for any felony defined under any law as a class C felony or with a statutory maximum sentence of five years, or both;

(iv) If the offender is being sentenced for any sexual motivation enhancements under (i), (ii), and/or (iii) of this subsection and the offender has previously been sentenced for any sexual motivation enhancements on or after July 1, 2006, under (i), (ii), and/or (iii) of this subsection, all sexual motivation enhancements under this subsection shall be twice the amount of the enhancement listed;

(b) Notwithstanding any other provision of law, all sexual motivation enhancements under this subsection are mandatory, shall be served in total confinement, and shall run consecutively to all other sentencing provisions, including other sexual motivation enhancements, for all offenses sentenced under this chapter. However, whether or not a mandatory minimum term has expired, an offender serving a sentence under this subsection may be granted an extraordinary medical placement when authorized under RCW 9.94A.728(4);

(c) The sexual motivation enhancements in this subsection apply to all felony crimes;

(d) If the standard sentence range under this subsection exceeds the statutory maximum sentence for the offense, the statutory maximum sentence shall be the presumptive sentence unless the offender is a persistent offender. If the addition of a sexual motivation enhancement increases the sentence so that it would exceed the statutory maximum for the offense, the portion of the sentence representing the enhancement may not be reduced;

(e) The portion of the total confinement sentence which the offender must serve under this subsection shall be calculated before any earned early release time is credited to the offender;

(f) Nothing in this subsection prevents a sentencing court from imposing a sentence outside the standard sentence range pursuant to RCW 9.94A.535.

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(9) An additional twelve months and one day shall be added to the standard sentence range for theft in the first or second degree when there has been a special verdict or finding under section 10 of this act that the damage to the victim greatly exceeds the value of the stolen property.

(10) An additional twelve months and one day shall be added to the standard sentence range for possessing stolen property in the first or second degree when there has been a special verdict or finding under section 11 of this act that the damage to the victim from whom the property was stolen greatly exceeds the value of the stolen property.

NEW SECTION. Sec. 13. Sections 1 through 9 of this act constitute a new chapter in Title 19 RCW.

NEW SECTION. Sec. 14. RCW 9.91.110 (Metal buyers--Records of purchases--Penalty) and 1971 ex.s. c 302 s 18 are each repealed.

NEW SECTION. Sec. 15. Captions used in this act are not any part of the law.

NEW SECTION. Sec. 16. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected."

Correct the title.
and the same are herewith transmitted.

RICHARD NAFZIGER, Chief Clerk

POINT OF ORDER

Senator Kline: "Mr. President, the question is whether the amendments by the other body to Engrossed Substitute Senate Bill No. 5312 are within the scope and object of the underlying bill as it was passed in this body?"

REPLY BY THE PRESIDENT

President Owen: "Are you raising the question of scope and object on the House amendments to Engrossed Substitute Senate Bill No. 5312?"

REMARKS BY SENATOR KLINE

Senator Kline: "I am Mr. President."

POINT OF ORDER

Senator Kline: "Thank you Mr. President. The underlying bill had as its purpose to protect and recover metal property owned by private entities and government agencies. It does so by establishing requirements upon business. The underlying bill is very much about metal theft, not about theft in general. The exceptional sentence amendments that were placed in the other body, create new authorities for prosecutors to seek exceptional sentence under the criminal code. It does not affect or relate to the sale or purchase of metal properties in particular but the entire wide spectrum of theft first degree, theft second degree, possession of stolen property first degree and possession second degree. In those, it requires, it allows the prosecutor to make special allegations of an exceptional sentence. It requires the judge, then, to impose an exceptional sentence, if the jury so finds. It has nothing to do with business requirements of the tracking and the return of metal. The bill, as it passed the Senate, proposed to create a new chapter entitled '19'. The exceptional sentence adds new sections in titled 9.9A, the criminal code. The underlying bill, as passed the Senate, included penalties within a new chapter in titled 19 that relates to violations of these business-oriented requirements. The exceptional sentence amended applies to all theft first and second degree and all possession of stolen property. I urge finding that this is beyond the scope. Thank you."

MOTION

On motion of Senator Eide, further consideration of Engrossed Substitute Senate Bill No. 5312 was deferred and the bill held its place on the concurrence and dispute calendar.

POINT OF ORDER

Senator Sheldon: "Is it appropriate to make an argument on behalf of the scope?"

REPLY BY THE PRESIDENT

President Owen: "Yes, Senator Sheldon, let me dispose of this motion and then I'll come back to you."

Without objection, the motion by Senator Eide carried and Engrossed Substitute Senate Bill No. 5312 was deferred by voice vote.

POINT OF ORDER

Senator Sheldon: "Thank you Mr. President. The amendment in question would allow prosecutors to file a special allegation of disproportionate impact when prosecuting the crime of theft in the first or second degree. One of the primary characteristics of metal theft that makes it such a pressing concern is the damage caused to the victim during the theft or the hazard created when the metal is part of a safety apparatus such as a highway guard rail or a grounding wire for an electrical facility. This amendment allows prosecutors to seek a penalty more in line with the crime, rather than simply rely on the value of the stolen material. I believe that this amendment is within the scope of the bill for the following reasons: First, the bill addresses the notion of stolen property in several places, such as, in section two, where anyone selling metal is required to sign a declaration affirming that the property is not stolen and immediately reports such material to law enforcement. Second, the bill establishes criminal penalties for various acts, such as altering identifying marks for the purpose of selling stolen materials or to make a false entry in the recording of a sale of metal property. Therefore, I believe that it is clearly the intent of the bill to discourage metal theft through the creation of additional penalties for those involved in the crime. The notion of additional penalties for the creation of a public hazard is also clearly connected to the protection of property owned by utilities, railroad, state agencies and the like. The theft of the electrical wire from a railroad crossing sign may only be a petty crime accordingly to the value of the material stolen but the cost to society is clearly much greater. I believe that creating a deterrent for this behavior in a form of increased penalties is clearly in line with the bill intended to protect and recover property owned by utilities, telecommunication companies, railroads, state agencies, political divisions of the state, construction firms and other parties. Thank you Mr. President."

PARLIAMENTARY INQUIRY

Senator Clements: "Mr. President, I do not know the proper order to respond to Senator Sheldon's comment or if it's appropriate?"

REPLY BY THE PRESIDENT

President Owen: "Senator Clements, the President allows one person to speak on either side of a scope and object argument and that has been done."

RULING BY THE PRESIDENT

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President Owen: "In ruling upon the point of order raised by Senator Pridemore that the House Amendments are beyond the scope and object of Substitute Senate Bill 5174, the President finds and rules as follows:

The underlying bill as it passed the Senate can be fairly characterized as a technical, if substantive, correction to various public retirement service system statutes, including vesting requirements and contribution rates for certain classes of participants.

There are two House amendments at issue: Amendment 516, and Amendment 505. Amendment 516 would permit certain individuals to transfer service credits between public retirement systems under certain circumstances. Similarly, Amendment 505 relates to purchasing service credits in a public retirement system.

Neither of these amendments relates to the underlying technical purposes of the original bill. Instead, they impermissibly broaden the object of the measure to include different subjects.

For these reasons, the President finds that the House Amendments are beyond the scope and scope and object of the underlying bill, and Senator Pridemore's point of order is well-taken."

The Senate resumed consideration of Substitute Senate Bill No. 5174 which had been deferred on the previous day.

MOTION

Senator Prentice moved that the Senate refuse to concur in the House amendment(s) to Substitute Senate Bill No. 5174 and ask the House to recede therefrom.

PARLIAMENTARY INQUIRY

Senator Benton: "Mr. President, since the point of order by Senator Pridemore was well taken and the amendments are considered to be out of scope and object of the bill, my question is, how can be concurring or not concurring? How can we vote on a motion to not concur when there are no longer amendments on the bill if they've been removed or ruled out of order by the President?"

REPLY BY THE PRESIDENT

President Owen: "For clarification the, if Senator Prentice did not make her motion, and the motion did not pass with the scope and object ruling, the bill would go back to the committee. This gives the opportunity, if in fact Senator Prentice motion passes, for them to remove the amendment and pass the bill as sent over to them by the Senate. The House. That is correct."

The President declared the question before the Senate to be motion by Senator Prentice that the Senate refuse to concur in the House amendment(s) to Substitute Senate Bill No. 5174 and ask the House to recede therefrom.

The motion by Senator Prentice carried and the Senate refused to concur in the House amendment(s) to Substitute Senate Bill No. 5174 and asked the House to recede therefrom.

MESSAGE FROM THE HOUSE

April 10, 2007

MR. PRESIDENT:

The House has passed SUBSTITUTE SENATE BILL NO. 5340, with the following amendment: 5340-S AMH LANT H3503.1; 5340-S AMH JUDI PERR 061

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 49.60.040 and 2006 c 4 s 4 are each amended to read as follows:

The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Person" includes one or more individuals, partnerships, associations, organizations, corporations, cooperatives, legal representatives, trustees and receivers, or any group of persons; it includes any owner, lessee, proprietor, manager, agent, or employee, whether one or more natural persons; and further includes any political or civil subdivisions of the state and any agency or instrumentality of the state or of any political or civil subdivision thereof;

(2) "Commission" means the Washington state human rights commission;

(3) "Employer" includes any person acting in the interest of an employer, directly or indirectly, who employs eight or more persons, and does not include any religious or sectarian organization not organized for private profit;

(4) "Employee" does not include any individual employed by his or her parents, spouse, or child, or in the domestic service of any person;

(5) "Labor organization" includes any organization which exists for the purpose, in whole or in part, of dealing with employers concerning grievances or terms or conditions of employment, or for other mutual aid or protection in connection with employment;

(6) "Employment agency" includes any person undertaking with or without compensation to recruit, procure, refer, or place employees for an employer;

(7) "Marital status" means the legal status of being married, single, separated, divorced, or widowed;

(8) "National origin" includes "ancestry";

(9) "Full enjoyment of" includes the right to purchase any service, commodity, or article of personal property offered or sold on, or by, any establishment to the public, and the admission of any person to accommodations, advantages, facilities, or privileges of any place of public resort, accommodation, assemblage, or amusement, without acts directly or indirectly causing persons of any particular race, creed, color, sex, sexual orientation, national origin, or with any sensory, mental, or physical disability, or the use of a trained dog guide or service animal by a (~~disabled~~) person with a disability, to be treated as not welcome, accepted, desired, or solicited;

(10) "Any place of public resort, accommodation, assemblage, or amusement" includes, but is not limited to, any place, licensed or unlicensed, kept for gain, hire, or reward, or where charges are made for admission, service, occupancy, or use of any property or facilities, whether conducted for the entertainment, housing, or lodging of transient guests, or for the benefit, use, or accommodation of those seeking health, recreation, or rest, or for the burial or other disposition of human remains, or for the sale of goods, merchandise, services, or personal property, or for the rendering of personal services, or for public conveyance or transportation on land, water, or in the air, including the stations and terminals thereof and the garaging of vehicles, or where food or beverages of any kind are sold for consumption on the premises, or where public amusement, entertainment, sports, or recreation of any kind is offered with or without charge, or where medical service or care is made available, or where the public gathers, congregates, or assembles for amusement, recreation, or public purposes, or public halls, public elevators, and public washrooms of buildings and structures occupied by two or more tenants, or by the owner and one or more tenants, or any public library or educational institution, or schools of special instruction, or nursery schools, or day care centers or children's camps: PROVIDED, That nothing contained in this definition shall be construed to include or apply to any institute, bona fide club, or place of accommodation, which is by its nature distinctly private,

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including fraternal organizations, though where public use is permitted that use shall be covered by this chapter; nor shall anything contained in this definition apply to any educational facility, columbarium, crematory, mausoleum, or cemetery operated or maintained by a bona fide religious or sectarian institution;

(11) "Real property" includes buildings, structures, dwellings, real estate, lands, tenements, leaseholds, interests in real estate cooperatives, condominiums, and hereditaments, corporeal and incorporeal, or any interest therein;

(12) "Real estate transaction" includes the sale, appraisal, brokering, exchange, purchase, rental, or lease of real property, transacting or applying for a real estate loan, or the provision of brokerage services;

(13) "Dwelling" means any building, structure, or portion thereof that is occupied as, or designed or intended for occupancy as, a residence by one or more families, and any vacant land that is offered for sale or lease for the construction or location thereon of any such building, structure, or portion thereof;

(14) "Sex" means gender;

(15) "Sexual orientation" means heterosexuality, homosexuality, bisexuality, and gender expression or identity. As used in this definition, "gender expression or identity" means having or being perceived as having a gender identity, self-image, appearance, behavior, or expression, whether or not that gender identity, self-image, appearance, behavior, or expression is different from that traditionally associated with the sex assigned to that person at birth;

(16) "Aggrieved person" means any person who: (a) Claims to have been injured by an unfair practice in a real estate transaction; or (b) believes that he or she will be injured by an unfair practice in a real estate transaction that is about to occur;

(17) "Complainant" means the person who files a complaint in a real estate transaction;

(18) "Respondent" means any person accused in a complaint or amended complaint of an unfair practice in a real estate transaction;

(19) "Credit transaction" includes any open or closed end credit transaction, whether in the nature of a loan, retail installment transaction, credit card issue or charge, or otherwise, and whether for personal or for business purposes, in which a service, finance, or interest charge is imposed, or which provides for repayment in scheduled payments, when such credit is extended in the regular course of any trade or commerce, including but not limited to transactions by banks, savings and loan associations or other financial lending institutions of whatever nature, stock brokers, or by a merchant or mercantile establishment which as part of its ordinary business permits or provides that payment for purchases of property or service therefrom may be deferred;

(20) "Families with children status" means one or more individuals who have not attained the age of eighteen years being domiciled with a parent or another person having legal custody of such individual or individuals, or with the designee of such parent or other person having such legal custody, with the written permission of such parent or other person. Families with children status also applies to any person who is pregnant or is in the process of securing legal custody of any individual who has not attained the age of eighteen years;

(21) "Covered multifamily dwelling" means: (a) Buildings consisting of four or more dwelling units if such buildings have one or more elevators; and (b) ground floor dwelling units in other buildings consisting of four or more dwelling units;

(22) "Premises" means the interior or exterior spaces, parts, components, or elements of a building, including individual dwelling units and the public and common use areas of a building;

(23) "Dog guide" means a dog that is trained for the purpose of guiding blind persons or a dog that is trained for the purpose of assisting hearing impaired persons;

(24) "Service animal" means an animal that is trained for the purpose of assisting or accommodating a ~~((disabled person's))~~ sensory, mental, or physical disability of a person with a disability;

(25)(a) "Disability" means the presence of a sensory, mental, or physical impairment that:

(i) Is medically cognizable or diagnosable; or

(ii) Exists as a record or history; or

(iii) Is perceived to exist whether or not it exists in fact.

(b) A disability exists whether it is temporary or permanent, common or uncommon, mitigated or unmitigated, or whether or not it limits the ability to work generally or work at a particular job or whether or not it limits any other activity within the scope of this chapter.

(c) For purposes of this definition, "impairment" includes, but is not limited to:

(i) Any physiological disorder, or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: Neurological, musculoskeletal, special sense organs, respiratory, including speech organs, cardiovascular, reproductive, digestive, genitor-urinary, hemic and lymphatic, skin, and endocrine; or

(ii) Any mental, developmental, traumatic, or psychological disorder, including but not limited to cognitive limitation, organic brain syndrome, emotional or mental illness, and specific learning disabilities.

(d) Only for the purposes of qualifying for reasonable accommodation in employment, an impairment must be known or shown through an interactive process to exist in fact and:

(i) The impairment must have a substantially limiting effect upon the individual's ability to perform his or her job, the individual's ability to apply or be considered for a job, or the individual's access to equal benefits, privileges, or terms or conditions of employment; or

(ii) The employee must have put the employer on notice of the existence of an impairment, and medical documentation must establish a reasonable likelihood that engaging in job functions without an accommodation would aggravate the impairment to the extent that it would create a substantially limiting effect.

(e) For purposes of (d) of this subsection, a limitation is not substantial if it has only a trivial effect.

NEW SECTION. Sec. 2. This act is remedial and retroactive, and applies to all causes of action occurring before July 6, 2006, and to all causes of action occurring on or after the effective date of this act."

Correct the title.

On page 1, beginning on line 5, strike all of section 1

Remember the remaining sections accordingly and the same are herewith transmitted.

RICHARD NAFZIGER, Chief Clerk

MOTION

Senator Kline moved that the Senate refuse to concur in the House amendment(s) to Substitute Senate Bill No. 5340 and ask the House to recede therefrom.

Senators Kline spoke in favor of the motion.

The President declared the question before the Senate to be motion by Senator Kline that the Senate refuse to concur in the House amendment(s) to Substitute Senate Bill No. 5340 and ask the House to recede therefrom.

The motion by Senator Kline carried and the Senate refused to concur in the House amendment(s) to Substitute Senate Bill No. 5340 and asked the House to recede therefrom.

MESSAGE FROM THE HOUSE

April 12, 2007

MR. PRESIDENT:

The House has passed ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 5930, with the following amendment: 5930-S2.E AMH ENGR H3526.E

Strike everything after the enacting clause and insert the following:

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"USE STATE PURCHASING TO IMPROVE HEALTH CARE QUALITY"

NEW SECTION. Sec. 1. (1) The health care authority and the department of social and health services shall, by September 1, 2007, develop a five-year plan to change reimbursement within their health care programs to:

- (a) Reward quality health outcomes rather than simply paying for the receipt of particular services or procedures;
- (b) Pay for care that reflects patient preference and is of proven value;
- (c) Require the use of evidence-based standards of care where available;
- (d) Tie provider rate increases to measurable improvements in access to quality care;
- (e) Direct enrollees to quality care systems;
- (f) Better support primary care and provide a medical home to all enrollees through reimbursement policies that create incentives for providers to enter and remain in primary care practice and that address disparities in payment between specialty procedures and primary care services; and
- (g) Pay for e-mail consultations, telemedicine, and telehealth where doing so reduces the overall cost of care.

(2) In developing any component of the plan that links payment to health care provider performance, the authority and the department shall work in collaboration with the department of health, health carriers, local public health jurisdictions, physicians and other health care providers, the Puget Sound health alliance, and other purchasers.

(3) The plan shall (a) identify any existing barriers and opportunities to support implementation, including needed changes to state or federal law; (b) identify the goals the plan is intended to achieve and how progress toward those goals will be measured; and (c) be submitted to the governor and the legislature upon completion. The agencies shall report to the legislature by September 1, 2007. Any component of the plan that links payment to health care provider performance must be submitted to the legislature for consideration prior to implementation by the department or the authority.

NEW SECTION. Sec. 2. A new section is added to chapter 41.05 RCW to read as follows:

(1) The legislature finds that there is growing evidence that, for preference-sensitive care involving elective surgery, patient-practitioner communication is improved through the use of high-quality decision aids that detail the benefits, harms, and uncertainty of available treatment options. Improved communication leads to more fully informed patient decisions. The legislature intends to increase the extent to which patients make genuinely informed, preference-based treatment decisions, by promoting public/private collaborative efforts to broaden the development, certification, use, and evaluation of effective decision aids and by recognition of shared decision making and patient decision aids in the state's laws on informed consent.

(2) The health care authority shall implement a shared decision-making demonstration project. The demonstration project shall be conducted at one or more multispecialty group practice sites providing state purchased health care in the state of Washington, and may include other practice sites providing state purchased health care. The demonstration project shall include the following elements:

(a) Incorporation into clinical practice of one or more decision aids for one or more identified preference-sensitive care areas combined with ongoing training and support of involved practitioners and practice teams, preferably at sites with necessary supportive health information technology;

(b) An evaluation of the impact of the use of shared decision making with decision aids, including the use of preference-sensitive health care services selected for the demonstration project and expenditures for those services, the impact on patients, including patient understanding of the treatment options presented and concordance between patient values and the care received, and patient and practitioner satisfaction with the shared decision-making process; and

(c) As a condition of participating in the demonstration project, a participating practice site must bear the cost of

selecting, purchasing, and incorporating the chosen decision aids into clinical practice.

(3) The health care authority may solicit and accept funding and in-kind contributions to support the demonstration and evaluation, and may scale the evaluation to fall within resulting resource parameters.

Sec. 3. RCW 7.70.060 and 1975-'76 2nd ex.s. c 56 s 11 are each amended to read as follows:

(1) If a patient while legally competent, or his or her representative if he or she is not competent, signs a consent form which sets forth the following, the signed consent form shall constitute prima facie evidence that the patient gave his or her informed consent to the treatment administered and the patient has the burden of rebutting this by a preponderance of the evidence:

((+)) (a) A description, in language the patient could reasonably be expected to understand, of:

((+)) (i) The nature and character of the proposed treatment;

((+)) (ii) The anticipated results of the proposed treatment;

((+)) (iii) The recognized possible alternative forms of treatment; and

((+)) (iv) The recognized serious possible risks, complications, and anticipated benefits involved in the treatment and in the recognized possible alternative forms of treatment, including nontreatment;

((+)) (b) Or as an alternative, a statement that the patient elects not to be informed of the elements set forth in (a) of this subsection ((1) of this section).

(2) If a patient while legally competent, or his or her representative if he or she is not competent, signs an acknowledgement of shared decision making as described in this section, such acknowledgement shall constitute prima facie evidence that the patient gave his or her informed consent to the treatment administered and the patient has the burden of rebutting this by clear and convincing evidence. An acknowledgement of shared decision making shall include:

(a) A statement that the patient, or his or her representative, and the health care provider have engaged in shared decision making as an alternative means of meeting the informed consent requirements set forth by laws, accreditation standards, and other mandates;

(b) A brief description of the services that the patient and provider jointly have agreed will be furnished;

(c) A brief description of the patient decision aid or aids that have been used by the patient and provider to address the needs for (i) high-quality, up-to-date information about the condition, including risk and benefits of available options and, if appropriate, a discussion of the limits of scientific knowledge about outcomes; (ii) values clarification to help patients sort out their values and preferences; and (iii) guidance or coaching in deliberation, designed to improve the patient's involvement in the decision process;

(d) A statement that the patient or his or her representative understands: The risk or seriousness of the disease or condition to be prevented or treated; the available treatment alternatives, including nontreatment; and the risks, benefits, and uncertainties of the treatment alternatives, including nontreatment; and

(e) A statement certifying that the patient or his or her representative has had the opportunity to ask the provider questions, and to have any questions answered to the patient's satisfaction, and indicating the patient's intent to receive the identified services.

(3) As used in this section, "shared decision making" means a process in which the physician or other health care practitioner discusses with the patient or his or her representative the information specified in subsection (2) of this section with the use of a patient decision aid and the patient shares with the provider such relevant personal information as might make one treatment or side effect more or less tolerable than others.

(4) As used in this section, "patient decision aid" means a written, audio-visual, or online tool that provides a balanced presentation of the condition and treatment options, benefits, and harms, including, if appropriate, a discussion of the limits of

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scientific knowledge about outcomes, and that is certified by one or more national certifying organizations.

(5) Failure to use a form or to engage in shared decision making, with or without the use of a patient decision aid, shall not be admissible as evidence of failure to obtain informed consent. There shall be no liability, civil or otherwise, resulting from a health care provider choosing either the signed consent form set forth in subsection (1)(a) of this section or the signed acknowledgement of shared decision making as set forth in subsection (2) of this section.

PREVENTION AND MANAGEMENT OF CHRONIC ILLNESS

NEW SECTION. Sec. 4. A new section is added to chapter 74.09 RCW to read as follows:

(1) The department of social and health services, in collaboration with the department of health, shall:

(a) Design and implement medical homes for its aged, blind, and disabled clients in conjunction with chronic care management programs to improve health outcomes, access, and cost-effectiveness. Programs must be evidence based, facilitating the use of information technology to improve quality of care, must acknowledge the role of primary care providers and include financial and other supports to enable these providers to effectively carry out their role in chronic care management, and must improve coordination of primary, acute, and long-term care for those clients with multiple chronic conditions. The department shall consider expansion of existing medical home and chronic care management programs and build on the Washington state collaborative initiative. The department shall use best practices in identifying those clients best served under a chronic care management model using predictive modeling through claims or other health risk information; and

(b) Evaluate the effectiveness of current chronic care management efforts in the health and recovery services administration and the aging and disability services administration, comparison to best practices, and recommendations for future efforts and organizational structure to improve chronic care management.

(2) For purposes of this section:

(a) "Medical home" means a site of care that provides comprehensive preventive and coordinated care centered on the patient needs and assures high quality, accessible, and efficient care.

(b) "Chronic care management" means the department's program that provides care management and coordination activities for medical assistance clients determined to be at risk for high medical costs. "Chronic care management" provides education and training and/or coordination that assist program participants in improving self-management skills to improve health outcomes and reduce medical costs by educating clients to better utilize services.

NEW SECTION. Sec. 5. A new section is added to chapter 43.70 RCW to read as follows:

(1) The department shall conduct a program of training and technical assistance regarding care of people with chronic conditions for providers of primary care. The program shall emphasize evidence-based high quality preventive and chronic disease care. The department may designate one or more chronic conditions to be the subject of the program.

(2) The training and technical assistance program shall include the following elements:

(a) Clinical information systems and sharing and organization of patient data;

(b) Decision support to promote evidence-based care;

(c) Clinical delivery system design;

(d) Support for patients managing their own conditions; and

(e) Identification and use of community resources that are available in the community for patients and their families.

(3) In selecting primary care providers to participate in the program, the department shall consider the number and type of patients with chronic conditions the provider serves, and the provider's participation in the medicaid program, the basic

health plan, and health plans offered through the public employees' benefits board.

NEW SECTION. Sec. 6. (1) The health care authority, in collaboration with the department of health, shall design and implement a chronic care management program for state employees enrolled in the state's self-insured uniform medical plan. Programs must be evidence based, facilitating the use of information technology to improve quality of care and must improve coordination of primary, acute, and long-term care for those enrollees with multiple chronic conditions. The authority shall consider expansion of existing medical home and chronic care management programs. The authority shall use best practices in identifying those employees best served under a chronic care management model using predictive modeling through claims or other health risk information.

(2) For purposes of this section:

(a) "Medical home" means a site of care that provides comprehensive preventive and coordinated care centered on the patient needs and assures high-quality, accessible, and efficient care.

(b) "Chronic care management" means the authority's program that provides care management and coordination activities for health plan enrollees determined to be at risk for high medical costs. "Chronic care management" provides education and training and/or coordination that assist program participants in improving self-management skills to improve health outcomes and reduce medical costs by educating clients to better utilize services.

Sec. 7. RCW 70.83.040 and 2005 c 518 s 938 are each amended to read as follows:

When notified of positive screening tests, the state department of health shall offer the use of its services and facilities, designed to prevent mental retardation or physical defects in such children, to the attending physician, or the parents of the newborn child if no attending physician can be identified.

The services and facilities of the department, and other state and local agencies cooperating with the department in carrying out programs of detection and prevention of mental retardation and physical defects shall be made available to the family and physician to the extent required in order to carry out the intent of this chapter and within the availability of funds. ~~((The department has the authority to collect a reasonable fee, from the parents or other responsible party of each infant screened to fund specialty clinics that provide treatment services for hemoglobin diseases, phenylketonuria, congenital adrenal hyperplasia, congenital hypothyroidism, and, during the 2005-07 fiscal biennium, other disorders defined by the board of health under RCW 70.83.020. The fee may be collected through the facility where the screening specimen is obtained.))~~

NEW SECTION. Sec. 8. A new section is added to chapter 70.83 RCW to read as follows:

The department has the authority to collect a fee of three dollars and fifty cents from the parents or other responsible party of each infant screened for congenital disorders as defined by the state board of health under RCW 70.83.020 to fund specialty clinics that provide treatment services for those with the defined disorders. The fee may be collected through the facility where a screening specimen is obtained.

COST AND QUALITY INFORMATION FOR CONSUMERS AND PROVIDERS

NEW SECTION. Sec. 9. A new section is added to chapter 41.05 RCW to read as follows:

The Washington state quality forum is established within the authority. In collaboration with the Puget Sound health alliance and other local organizations, the forum shall:

(1) Collect and disseminate research regarding health care quality, evidence-based medicine, and patient safety to promote best practices, in collaboration with the technology assessment program and the prescription drug program;

(2) Coordinate the collection of health care quality data among state health care purchasing agencies;

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(3) Adopt a set of measures to evaluate and compare health care cost and quality and provider performance;

(4) Identify and disseminate information regarding variations in clinical practice patterns across the state; and

(5) Produce an annual quality report detailing clinical practice patterns for purchasers, providers, insurers, and policy makers. The agencies shall report to the legislature by September 1, 2007.

NEW SECTION. Sec. 10. A new section is added to chapter 41.05 RCW to read as follows:

(1) The administrator shall design and pilot a consumer-centric health information infrastructure and the first health record banks that will facilitate the secure exchange of health information when and where needed and shall:

(a) Complete the plan of initial implementation, including but not limited to determining the technical infrastructure for health record banks and the account locator service, setting criteria and standards for health record banks, and determining oversight of health record banks;

(b) Implement the first health record banks in pilot sites as funding allows;

(c) Involve health care consumers in meaningful ways in the design, implementation, oversight, and dissemination of information on the health record bank system; and

(d) Promote adoption of electronic medical records and health information exchange through continuation of the Washington health information collaborative, and by working with private payors and other organizations in restructuring reimbursement to provide incentives for providers to adopt electronic medical records in their practices.

(2) The administrator may establish an advisory board, a stakeholder committee, and subcommittees to assist in carrying out the duties under this section. The administrator may reappoint health information infrastructure advisory board members to assure continuity and shall appoint any additional representatives that may be required for their expertise and experience.

(a) The administrator shall appoint the chair of the advisory board, chairs, and co-chairs of the stakeholder committee, if formed;

(b) Meetings of the board, stakeholder committee, and any advisory group are subject to chapter 42.30 RCW, the open public meetings act, including RCW 42.30.110(1)(I), which authorizes an executive session during a regular or special meeting to consider proprietary or confidential nonpublished information; and

(c) The members of the board, stakeholder committee, and any advisory group:

(i) Shall agree to the terms and conditions imposed by the administrator regarding conflicts of interest as a condition of appointment;

(ii) Are immune from civil liability for any official acts performed in good faith as members of the board, stakeholder committee, or any advisory group.

(3) Members of the board may be compensated for participation in accordance with a personal services contract to be executed after appointment and before commencement of activities related to the work of the board. Members of the stakeholder committee shall not receive compensation but shall be reimbursed under RCW 43.03.050 and 43.03.060.

(4) The administrator may work with public and private entities to develop and encourage the use of personal health records which are portable, interoperable, secure, and respectful of patients' privacy.

(5) The administrator may enter into contracts to issue, distribute, and administer grants that are necessary or proper to carry out this section.

Sec. 11. RCW 43.70.110 and 2006 c 72 s 3 are each amended to read as follows:

(1) The secretary shall charge fees to the licensee for obtaining a license. After June 30, 1995, municipal corporations providing emergency medical care and transportation services pursuant to chapter 18.73 RCW shall be exempt from such fees, provided that such other emergency services shall only be charged for their pro rata share of the cost

of licensure and inspection, if appropriate. The secretary may waive the fees when, in the discretion of the secretary, the fees would not be in the best interest of public health and safety, or when the fees would be to the financial disadvantage of the state.

(2) Except as provided in (~~RCW 18.79.202, until June 30, 2013, and except for the cost of regulating retired volunteer medical workers in accordance with RCW 18.130.360~~) subsection (3) of this section, fees charged shall be based on, but shall not exceed, the cost to the department for the licensure of the activity or class of activities and may include costs of necessary inspection.

(3) License fees shall include amounts in addition to the cost of licensure activities in the following circumstances:

(a) For registered nurses and licensed practical nurses licensed under chapter 18.79 RCW, support of a central nursing resource center as provided in RCW 18.79.202, until June 30, 2013:

(b) For all health care providers licensed under RCW 18.130.040, the cost of regulatory activities for retired volunteer medical worker licensees as provided in RCW 18.130.360; and

(c) For physicians licensed under chapter 18.71 RCW, physician assistants licensed under chapter 18.71A RCW, osteopathic physicians licensed under chapter 18.57 RCW, osteopathic physicians' assistants licensed under chapter 18.57A RCW, naturopaths licensed under chapter 18.36A RCW, podiatrists licensed under chapter 18.22 RCW, chiropractors licensed under chapter 18.25 RCW, psychologists licensed under chapter 18.83 RCW, registered nurses licensed under chapter 18.79 RCW, optometrists licensed under chapter 18.53 RCW, mental health counselors licensed under chapter 18.225 RCW, massage therapists licensed under chapter 18.108 RCW, clinical social workers licensed under chapter 18.225 RCW, and acupuncturists licensed under chapter 18.06 RCW, the license fees shall include up to an additional twenty-five dollars to be transferred by the department to the University of Washington for the purposes of section 12 of this act.

(4) Department of health advisory committees may review fees established by the secretary for licenses and comment upon the appropriateness of the level of such fees.

NEW SECTION. Sec. 12. A new section is added to chapter 43.70 RCW to read as follows:

Within the amounts transferred from the department of health under RCW 43.70.110(3), the University of Washington shall, through the health sciences library, provide online access to selected vital clinical resources, medical journals, decision support tools, and evidence-based reviews of procedures, drugs, and devices to the health professionals listed in RCW 43.70.110(3)(c). Online access shall be available no later than January 1, 2009.

Sec. 13. RCW 70.56.030 and 2006 c 8 s 107 are each amended to read as follows:

(1) The department shall:

(a) Receive and investigate, where necessary, notifications and reports of adverse events, including root cause analyses and corrective action plans submitted as part of reports, and communicate to individual facilities the department's conclusions, if any, regarding an adverse event reported by a facility; (~~and~~)

(b) Provide to the Washington state quality forum established in section 9 of this act such information from the adverse health events and incidents reports made under this chapter as the department and the Washington state quality forum determine will assist in the Washington state quality forum's research regarding health care quality, evidence-based medicine, and patient safety. Any shared information must be aggregated and not identify an individual medical facility. As determined by the department and the Washington state quality forum, selected shared information may be disseminated on the Washington state quality forum's web site and through other appropriate means; and

(c) Adopt rules as necessary to implement this chapter.

(2) The department may enforce the reporting requirements of RCW 70.56.020 using (~~their~~) its existing enforcement authority provided in chapter 18.46 RCW for childbirth centers,

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chapter 70.41 RCW for hospitals, and chapter 71.12 RCW for psychiatric hospitals.

REDUCING UNNECESSARY EMERGENCY ROOM USE

NEW SECTION. Sec. 14. The Washington state health care authority and the department of social and health services shall report to the legislature by December 1, 2007, on recent trends in unnecessary emergency room use by enrollees in state purchased health care programs that they administer and the uninsured, and then partner with community organizations and local health care providers to design a demonstration pilot to reduce such unnecessary visits.

NEW SECTION. Sec. 15. A new section is added to chapter 41.05 RCW to read as follows:

In collaboration with the department of social and health services, the administrator shall provide all persons enrolled in health plans under this chapter and chapter 70.47 RCW with access to a twenty-four hour, seven day a week nurse hotline.

NEW SECTION. Sec. 16. A new section is added to chapter 74.09 RCW to read as follows:

In collaboration with the health care authority, the department shall provide all persons receiving services under this chapter with access to a twenty-four hour, seven day a week nurse hotline. The health care authority and the department of social and health services shall determine the most appropriate way to provide the nurse hotline under section 15 of this act and this section, which may include use of the 211 system established in chapter 43.211 RCW.

REDUCE HEALTH CARE ADMINISTRATIVE COSTS

NEW SECTION. Sec. 17. By September 1, 2007, the insurance commissioner shall provide a report to the governor and the legislature that identifies the key contributors to health care administrative costs and evaluates opportunities to reduce them, including suggested changes to state law. The report shall be completed in collaboration with health care providers, carriers, state health purchasing agencies, the Washington healthcare forum, and other interested parties.

COVERAGE FOR DEPENDENTS TO AGE TWENTY-FIVE

NEW SECTION. Sec. 18. A new section is added to chapter 41.05 RCW to read as follows:

(1) Any plan offered to employees under this chapter must offer each employee the option of covering any unmarried dependent of the employee under the age of twenty-five.

(2) Any employee choosing under subsection (1) of this section to cover a dependent who is: (a) Age twenty through twenty-three and not a registered student at an accredited secondary school, college, university, vocational school, or school of nursing; or (b) age twenty-four, shall be required to pay the full cost of such coverage.

(3) Any employee choosing under subsection (1) of this section to cover a dependent with disabilities, developmental disabilities, mental illness, or mental retardation, who is incapable of self-support, may continue covering that dependent under the same premium and payment structure as for dependents under the age of twenty, irrespective of age.

NEW SECTION. Sec. 19. A new section is added to chapter 48.20 RCW to read as follows:

Any disability insurance contract that provides coverage for a subscriber's dependent must offer the option of covering any unmarried dependent under the age of twenty-five.

NEW SECTION. Sec. 20. A new section is added to chapter 48.21 RCW to read as follows:

Any group disability insurance contract or blanket disability insurance contract that provides coverage for a participating member's dependent must offer each participating member the option of covering any unmarried dependent under the age of twenty-five.

NEW SECTION. Sec. 21. A new section is added to chapter 48.44 RCW to read as follows:

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(1) Any individual health care service plan contract that provides coverage for a subscriber's dependent must offer the option of covering any unmarried dependent under the age of twenty-five.

(2) Any group health care service plan contract that provides coverage for a participating member's dependent must offer each participating member the option of covering any unmarried dependent under the age of twenty-five.

NEW SECTION. Sec. 22. A new section is added to chapter 48.46 RCW to read as follows:

(1) Any individual health maintenance agreement that provides coverage for a subscriber's dependent must offer the option of covering any unmarried dependent under the age of twenty-five.

(2) Any group health maintenance agreement that provides coverage for a participating member's dependent must offer each participating member the option of covering any unmarried dependent under the age of twenty-five.

SUSTAINABILITY AND ACCESS TO PUBLIC PROGRAMS

NEW SECTION. Sec. 23. (1) The department of social and health services shall develop a series of options that require federal waivers and state plan amendments to expand coverage and leverage federal and state resources for the state's basic health program, for the medical assistance program, as codified at Title XIX of the federal social security act, and the state's children's health insurance program, as codified at Title XXI of the federal social security act. The department shall propose options including but not limited to:

(a) Offering alternative benefit designs to promote high quality care, improve health outcomes, and encourage cost-effective treatment options and redirect savings to finance additional coverage;

(b) Creation of a health opportunity account demonstration program for individuals eligible for transitional medical benefits. When a participant in the health opportunity account demonstration program satisfies his or her deductible, the benefits provided shall be those included in the medicaid benefit package in effect during the period of the demonstration program; and

(c) Promoting private health insurance plans and premium subsidies to purchase employer-sponsored insurance wherever possible, including federal approval to expand the department's employer-sponsored insurance premium assistance program to enrollees covered through the state's children's health insurance program.

(2) Prior to submitting requests for federal waivers or state plan amendments, the department shall consult with and seek input from stakeholders and other interested parties.

(3) The department of social and health services, in collaboration with the Washington state health care authority, shall ensure that enrollees are not simultaneously enrolled in the state's basic health program and the medical assistance program or the state's children's health insurance program to ensure coverage for the maximum number of people within available funds.

NEW SECTION. Sec. 24. A new section is added to chapter 48.43 RCW to read as follows:

When the department of social and health services determines that it is cost-effective to enroll a person eligible for medical assistance under chapter 74.09 RCW in an employer-sponsored health plan, a carrier shall permit the enrollment of the person in the health plan for which he or she is otherwise eligible without regard to any open enrollment period restrictions.

REINSURANCE

NEW SECTION. Sec. 25. (1) The office of financial management, in collaboration with the office of the insurance commissioner, shall evaluate options and design a state-supported reinsurance program to address the impact of high cost enrollees in the individual and small group health insurance

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markets, and submit an interim report to the governor and the legislature by December 1, 2007, and a final report, including implementing legislation and supporting information, including financing options, by September 1, 2008. In designing the program, the office of financial management shall:

(a) Estimate the quantitative impact on premium savings, premium stability over time and across groups of enrollees, individual and employer take-up, number of uninsured, and government costs associated with a government-funded stop-loss insurance program, including distinguishing between one-time premium savings and savings in subsequent years. In evaluating the various reinsurance models, evaluate and consider (i) the reduction in total health care costs to the state and private sector, and (ii) the reduction in individual premiums paid by employers, employees, and individuals;

(b) Identify all relevant design issues and alternative options for each issue. At a minimum, the evaluation shall examine (i) a reinsurance corridor of ten thousand dollars to ninety thousand dollars, and a reimbursement of ninety percent; (ii) the impacts of providing reinsurance for all small group products or a subset of products; and (iii) the applicability of a chronic care program such as the approach used by the department of labor and industries with the centers of occupational health and education. Where quantitative impacts cannot be estimated, the office of financial management shall assess qualitative impacts of design issues and their options, including potential disincentives for reducing premiums, achieving premium stability, sustaining/increasing take-up, decreasing the number of uninsured, and managing government's stop-loss insurance costs;

(c) Identify market and regulatory changes needed to maximize the chance of the program achieving its policy goals, including how the program will relate to other coverage programs and markets. Design efforts shall coordinate with other design efforts targeting small group programs that may be directed by the legislature, as well as other approaches examining alternatives to managing risk;

(d) Address conditions under which overall expenditures could increase as a result of a government-funded stop-loss program and options to mitigate those conditions, such as passive versus aggressive use of disease and care management programs by insurers;

(e) Determine whether the Washington state health insurance pool should be retained, and if so, develop options for additional sources of funding;

(f) Evaluate, and quantify where possible, the behavioral responses of insurers to the program including impacts on insurer premiums and practices for settling legal disputes around large claims; and

(g) Provide alternatives for transitioning from the status quo and, where applicable, alternatives for phasing in some design elements, such as threshold or corridor levels, to balance government costs and premium savings.

(2) Within funds specifically appropriated for this purpose, the office of financial management may contract with actuaries and other experts as necessary to meet the requirements of this section.

THE WASHINGTON STATE HEALTH INSURANCE POOL AND THE BASIC HEALTH PLAN

Sec. 26. RCW 48.41.110 and 2001 c 196 s 4 are each amended to read as follows:

(1) The pool shall offer one or more care management plans of coverage. Such plans may, but are not required to, include point of service features that permit participants to receive in-network benefits or out-of-network benefits subject to differential cost shares. ~~((Covered persons enrolled in the pool on January 1, 2001, may continue coverage under the pool plan in which they are enrolled on that date. However,))~~ The pool may incorporate managed care features into ~~((such))~~ existing plans.

(2) The administrator shall prepare a brochure outlining the benefits and exclusions of ~~((the))~~ pool ~~((policy))~~ policies in plain language. After approval by the board, such brochure

shall be made reasonably available to participants or potential participants.

(3) The health insurance ~~((policy))~~ policies issued by the pool shall pay only reasonable amounts for medically necessary eligible health care services rendered or furnished for the diagnosis or treatment of covered illnesses, injuries, and conditions ~~((which are not otherwise limited or excluded))~~. Eligible expenses are the reasonable amounts for the health care services and items for which benefits are extended under ~~((the))~~ a pool policy. ~~((Such benefits shall at minimum include, but not be limited to, the following services or related items:))~~

(4) The pool shall offer at least two policies, one of which will be a comprehensive policy that must comply with RCW 48.41.120 and must at a minimum include the following services or related items:

(a) Hospital services, including charges for the most common semiprivate room, for the most common private room if semiprivate rooms do not exist in the health care facility, or for the private room if medically necessary, ~~((but limited to))~~ including no less than a total of one hundred eighty inpatient days in a calendar year, and ~~((limited to))~~ no less than thirty days inpatient care for mental and nervous conditions, or alcohol, drug, or chemical dependency or abuse per calendar year;

(b) Professional services including surgery for the treatment of injuries, illnesses, or conditions, other than dental, which are rendered by a health care provider, or at the direction of a health care provider, by a staff of registered or licensed practical nurses, or other health care providers;

(c) ~~((The first))~~ No less than twenty outpatient professional visits for the diagnosis or treatment of one or more mental or nervous conditions or alcohol, drug, or chemical dependency or abuse rendered during a calendar year by one or more physicians, psychologists, or community mental health professionals, or, at the direction of a physician, by other qualified licensed health care practitioners, in the case of mental or nervous conditions, and rendered by a state certified chemical dependency program approved under chapter 70.96A RCW, in the case of alcohol, drug, or chemical dependency or abuse;

(d) Drugs and contraceptive devices requiring a prescription;

(e) Services of a skilled nursing facility, excluding custodial and convalescent care, for not ~~((more))~~ less than one hundred days in a calendar year as prescribed by a physician;

(f) Services of a home health agency;

(g) Chemotherapy, radioisotope, radiation, and nuclear medicine therapy;

(h) Oxygen;

(i) Anesthesia services;

(j) Prostheses, other than dental;

(k) Durable medical equipment which has no personal use in the absence of the condition for which prescribed;

(l) Diagnostic x-rays and laboratory tests;

(m) Oral surgery ~~((limited to))~~ including at least the following: Fractures of facial bones; excisions of mandibular joints, lesions of the mouth, lip, or tongue, tumors, or cysts excluding treatment for temporomandibular joints; incision of accessory sinuses, mouth salivary glands or ducts; dislocations of the jaw; plastic reconstruction or repair of traumatic injuries occurring while covered under the pool; and excision of impacted wisdom teeth;

(n) Maternity care services;

(o) Services of a physical therapist and services of a speech therapist;

(p) Hospice services;

(q) Professional ambulance service to the nearest health care facility qualified to treat the illness or injury; and

(r) Other medical equipment, services, or supplies required by physician's orders and medically necessary and consistent with the diagnosis, treatment, and condition.

~~((+))~~(5) The board shall design and employ cost containment measures and requirements such as, but not limited to, care coordination, provider network limitations, preadmission certification, and concurrent inpatient review which may make the pool more cost-effective.

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~~((5))~~ (6) The pool benefit policy may contain benefit limitations, exceptions, and cost shares such as copayments, coinsurance, and deductibles that are consistent with managed care products, except that differential cost shares may be adopted by the board for nonnetwork providers under point of service plans. ~~(The pool benefit policy cost shares and limitations must be consistent with those that are generally included in health plans approved by the insurance commissioner; however,)~~ No limitation, exception, or reduction may be used that would exclude coverage for any disease, illness, or injury.

~~((6))~~ (7) The pool may not reject an individual for health plan coverage based upon preexisting conditions of the individual or deny, exclude, or otherwise limit coverage for an individual's preexisting health conditions; except that it shall impose a six-month benefit waiting period for preexisting conditions for which medical advice was given, for which a health care provider recommended or provided treatment, or for which a prudent layperson would have sought advice or treatment, within six months before the effective date of coverage. The preexisting condition waiting period shall not apply to prenatal care services. The pool may not avoid the requirements of this section through the creation of a new rate classification or the modification of an existing rate classification. Credit against the waiting period shall be as provided in subsection ~~((7))~~ (8) of this section.

~~((7))~~ (8)(a) Except as provided in (b) of this subsection, the pool shall credit any preexisting condition waiting period in its plans for a person who was enrolled at any time during the sixty-three day period immediately preceding the date of application for the new pool plan. For the person previously enrolled in a group health benefit plan, the pool must credit the aggregate of all periods of preceding coverage not separated by more than sixty-three days toward the waiting period of the new health plan. For the person previously enrolled in an individual health benefit plan other than a catastrophic health plan, the pool must credit the period of coverage the person was continuously covered under the immediately preceding health plan toward the waiting period of the new health plan. For the purposes of this subsection, a preceding health plan includes an employer-provided self-funded health plan.

(b) The pool shall waive any preexisting condition waiting period for a person who is an eligible individual as defined in section 2741(b) of the federal health insurance portability and accountability act of 1996 (42 U.S.C. 300gg-41(b)).

~~((8))~~ (9) If an application is made for the pool policy as a result of rejection by a carrier, then the date of application to the carrier, rather than to the pool, should govern for purposes of determining preexisting condition credit.

(10) The pool shall contract with organizations that provide care management that has been demonstrated to be effective and shall encourage enrollees who are eligible for care management services to participate.

Sec. 27. RCW 48.41.160 and 1987 c 431 s 16 are each amended to read as follows:

(1) ~~((A pool policy offered under this chapter shall contain provisions under which the pool is obligated to renew the policy until the day on which the individual in whose name the policy is issued first becomes eligible for medicare coverage. At that time, coverage of dependents shall terminate if such dependents are eligible for coverage under a different health plan. Dependents who become eligible for medicare prior to the individual in whose name the policy is issued, shall receive benefits in accordance with RCW 48.41.150))~~ On or before December 31, 2007, the pool shall cancel all existing pool policies and replace them with policies that are identical to the existing policies except for the inclusion of a provision providing for a guarantee of the continuity of coverage consistent with this section. As a means to minimize the number of policy changes for enrollees, replacement policies provided under this subsection also may include the plan modifications authorized in RCW 48.41.100, 48.41.110, and 48.41.120.

(2) A pool policy shall contain a guarantee of the individual's right to continued coverage, subject to the provisions of subsections (4) and (5) of this section.

(3) The guarantee of continuity of coverage required by this section shall not prevent the pool from canceling or nonrenewing a policy for:

(a) Nonpayment of premium;

(b) Violation of published policies of the pool;

(c) Failure of a covered person who becomes eligible for medicare benefits by reason of age to apply for a pool medical supplement plan, or a medicare supplement plan or other similar plan offered by a carrier pursuant to federal laws and regulations;

(d) Failure of a covered person to pay any deductible or copayment amount owed to the pool and not the provider of health care services;

(e) Covered persons committing fraudulent acts as to the pool;

(f) Covered persons materially breaching the pool policy; or

(g) Changes adopted to federal or state laws when such changes no longer permit the continued offering of such coverage.

(4)(a) The guarantee of continuity of coverage provided by this section requires that if the pool replaces a plan, it must make the replacement plan available to all individuals in the plan being replaced. The replacement plan must include all of the services covered under the replaced plan, and must not significantly limit access to the kind of services covered under the replacement plan through unreasonable cost-sharing requirements or otherwise. The pool may also allow individuals who are covered by a plan that is being replaced an unrestricted right to transfer to a fully comparable plan.

(b) The guarantee of continuity of coverage provided by this section requires that if the pool discontinues offering a plan: (i) The pool must provide notice to each individual of the discontinuation at least ninety days prior to the date of the discontinuation; (ii) the pool must offer to each individual provided coverage under the discontinued plan the option to enroll in any other plan currently offered by the pool for which the individual is otherwise eligible; and (iii) in exercising the option to discontinue a plan and in offering the option of coverage under (b)(ii) of this subsection, the pool must act uniformly without regard to any health status-related factor of enrolled individuals or individuals who may become eligible for this coverage.

(c) The pool cannot replace a plan under this subsection until it has completed an evaluation of the impact of replacing the plan upon:

(i) The cost and quality of care to pool enrollees;

(ii) Pool financing and enrollment;

(iii) The board's ability to offer comprehensive and other plans to its enrollees;

(iv) Other items identified by the board.

In its evaluation, the board must request input from the constituents represented by the board members.

(d) The guarantee of continuity of coverage provided by this section does not apply if the pool has zero enrollment in a plan.

(5) The pool may not change the rates for pool policies except on a class basis, with a clear disclosure in the policy of the pool's right to do so.

~~((3))~~ (6) A pool policy offered under this chapter shall provide that, upon the death of the individual in whose name the policy is issued, every other individual then covered under the policy may elect, within a period specified in the policy, to continue coverage under the same or a different policy.

Sec. 28. RCW 48.41.200 and 2000 c 79 s 17 are each amended to read as follows:

(1) The pool shall determine the standard risk rate by calculating the average individual standard rate charged for coverage comparable to pool coverage by the five largest members, measured in terms of individual market enrollment, offering such coverages in the state. In the event five members do not offer comparable coverage, the standard risk rate shall be established using reasonable actuarial techniques and shall reflect anticipated experience and expenses for such coverage in the individual market.

(2) Subject to subsection (3) of this section, maximum rates for pool coverage shall be as follows:

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(a) Maximum rates for a pool indemnity health plan shall be one hundred fifty percent of the rate calculated under subsection (1) of this section;

(b) Maximum rates for a pool care management plan shall be one hundred twenty-five percent of the rate calculated under subsection (1) of this section; and

(c) Maximum rates for a person eligible for pool coverage pursuant to RCW 48.41.100(1)(a) who was enrolled at any time during the sixty-three day period immediately prior to the date of application for pool coverage in a group health benefit plan or an individual health benefit plan other than a catastrophic health plan as defined in RCW 48.43.005, where such coverage was continuous for at least eighteen months, shall be:

(i) For a pool indemnity health plan, one hundred twenty-five percent of the rate calculated under subsection (1) of this section; and

(ii) For a pool care management plan, one hundred ten percent of the rate calculated under subsection (1) of this section.

(3)(a) Subject to (b) and (c) of this subsection:

(i) The rate for any person (~~(aged fifty to sixty-four)~~) whose current gross family income is less than two hundred fifty-one percent of the federal poverty level shall be reduced by thirty percent from what it would otherwise be;

(ii) The rate for any person (~~(aged fifty to sixty-four)~~) whose current gross family income is more than two hundred fifty but less than three hundred one percent of the federal poverty level shall be reduced by fifteen percent from what it would otherwise be;

(iii) The rate for any person who has been enrolled in the pool for more than thirty-six months shall be reduced by five percent from what it would otherwise be.

(b) In no event shall the rate for any person be less than one hundred ten percent of the rate calculated under subsection (1) of this section.

(c) Rate reductions under (a)(i) and (ii) of this subsection shall be available only to the extent that funds are specifically appropriated for this purpose in the omnibus appropriations act.

Sec. 29. RCW 48.41.037 and 2000 c 79 s 36 are each amended to read as follows:

The Washington state health insurance pool account is created in the custody of the state treasurer. All receipts from moneys specifically appropriated to the account must be deposited in the account. Expenditures from this account shall be used to cover deficits incurred by the Washington state health insurance pool under this chapter in excess of the threshold established in this section. To the extent funds are available in the account, funds shall be expended from the account to offset that portion of the deficit that would otherwise have to be recovered by imposing an assessment on members in excess of a threshold of seventy cents per insured person per month. The commissioner shall authorize expenditures from the account, to the extent that funds are available in the account, upon certification by the pool board that assessments will exceed the threshold level established in this section. The account is subject to the allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures.

Whether the assessment has reached the threshold of seventy cents per insured person per month shall be determined by dividing the total aggregate amount of assessment by the proportion of total assessed members. Thus, stop loss members shall be counted as one-tenth of a whole member in the denominator given that is the amount they are assessed proportionately relative to a fully insured medical member.

Sec. 30. RCW 48.41.100 and 2001 c 196 s 3 are each amended to read as follows:

(1) The following persons who are residents of this state are eligible for pool coverage:

(a) Any person who provides evidence of a carrier's decision not to accept him or her for enrollment in an individual health benefit plan as defined in RCW 48.43.005 based upon, and within ninety days of the receipt of, the results of the standard health questionnaire designated by the board and administered by health carriers under RCW 48.43.018;

(b) Any person who continues to be eligible for pool coverage based upon the results of the standard health questionnaire designated by the board and administered by the pool administrator pursuant to subsection (3) of this section;

(c) Any person who resides in a county of the state where no carrier or insurer eligible under chapter 48.15 RCW offers to the public an individual health benefit plan other than a catastrophic health plan as defined in RCW 48.43.005 at the time of application to the pool, and who makes direct application to the pool; and

(d) Any medicare eligible person upon providing evidence of rejection for medical reasons, a requirement of restrictive riders, an up-rated premium, or a preexisting conditions limitation on a medicare supplemental insurance policy under chapter 48.66 RCW, the effect of which is to substantially reduce coverage from that received by a person considered a standard risk by at least one member within six months of the date of application.

(2) The following persons are not eligible for coverage by the pool:

(a) Any person having terminated coverage in the pool unless (i) twelve months have lapsed since termination, or (ii) that person can show continuous other coverage which has been involuntarily terminated for any reason other than nonpayment of premiums. However, these exclusions do not apply to eligible individuals as defined in section 2741(b) of the federal health insurance portability and accountability act of 1996 (42 U.S.C. Sec. 300gg-41(b));

(b) Any person on whose behalf the pool has paid out ~~(one)~~ two million dollars in benefits;

(c) Inmates of public institutions and persons whose benefits are duplicated under public programs. However, these exclusions do not apply to eligible individuals as defined in section 2741(b) of the federal health insurance portability and accountability act of 1996 (42 U.S.C. Sec. 300gg-41(b));

(d) Any person who resides in a county of the state where any carrier or insurer regulated under chapter 48.15 RCW offers to the public an individual health benefit plan other than a catastrophic health plan as defined in RCW 48.43.005 at the time of application to the pool and who does not qualify for pool coverage based upon the results of the standard health questionnaire, or pursuant to subsection (1)(d) of this section.

(3) When a carrier or insurer regulated under chapter 48.15 RCW begins to offer an individual health benefit plan in a county where no carrier had been offering an individual health benefit plan:

(a) If the health benefit plan offered is other than a catastrophic health plan as defined in RCW 48.43.005, any person enrolled in a pool plan pursuant to subsection (1)(c) of this section in that county shall no longer be eligible for coverage under that plan pursuant to subsection (1)(c) of this section, but may continue to be eligible for pool coverage based upon the results of the standard health questionnaire designated by the board and administered by the pool administrator. The pool administrator shall offer to administer the questionnaire to each person no longer eligible for coverage under subsection (1)(c) of this section within thirty days of determining that he or she is no longer eligible;

(b) Losing eligibility for pool coverage under this subsection (3) does not affect a person's eligibility for pool coverage under subsection (1)(a), (b), or (d) of this section; and

(c) The pool administrator shall provide written notice to any person who is no longer eligible for coverage under a pool plan under this subsection (3) within thirty days of the administrator's determination that the person is no longer eligible. The notice shall: (i) Indicate that coverage under the plan will cease ninety days from the date that the notice is dated; (ii) describe any other coverage options, either in or outside of the pool, available to the person; (iii) describe the procedures for the administration of the standard health questionnaire to determine the person's continued eligibility for coverage under subsection (1)(b) of this section; and (iv) describe the enrollment process for the available options outside of the pool.

(4) The board shall ensure that an independent analysis of the eligibility standards for the pool coverage is conducted,

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including examining the eight percent eligibility threshold, eligibility for medicaid enrollees and other publicly sponsored enrollees, and the impacts on the pool and the state budget. The board shall report the findings to the legislature by December 1, 2007.

Sec. 31. RCW 48.41.120 and 2000 c 79 s 14 are each amended to read as follows:

(1) Subject to the limitation provided in subsection (3) of this section, ~~((a))~~ the comprehensive pool policy offered ~~((in accordance with))~~ under RCW 48.41.110 ~~((3))~~ (4) shall impose a deductible as provided in this subsection. Deductibles of five hundred dollars and one thousand dollars on a per person per calendar year basis shall initially be offered. The board may authorize deductibles in other amounts. The deductible shall be applied to the first five hundred dollars, one thousand dollars, or other authorized amount of eligible expenses incurred by the covered person.

(2) Subject to the limitations provided in subsection (3) of this section, a mandatory coinsurance requirement shall be imposed at ~~((the))~~ a rate ~~((of))~~ not to exceed twenty percent of eligible expenses in excess of the mandatory deductible and which supports the efficient delivery of high quality health care services for the medical conditions of pool enrollees.

(3) The maximum aggregate out of pocket payments for eligible expenses by the insured in the form of deductibles and coinsurance under ~~((a))~~ the comprehensive pool policy offered ~~((in accordance with))~~ under RCW 48.41.110 ~~((3))~~ (4) shall not exceed in a calendar year:

(a) One thousand five hundred dollars per individual, or three thousand dollars per family, per calendar year for the five hundred dollar deductible policy;

(b) Two thousand five hundred dollars per individual, or five thousand dollars per family per calendar year for the one thousand dollar deductible policy; or

(c) An amount authorized by the board for any other deductible policy.

(4) Except for those enrolled in a high deductible health plan qualified under federal law for use with a health savings account, eligible expenses incurred by a covered person in the last three months of a calendar year, and applied toward a deductible, shall also be applied toward the deductible amount in the next calendar year.

(5) The board may modify cost-sharing as an incentive for enrollees to participate in care management services and other cost-effective programs and policies.

Sec. 32. RCW 48.43.005 and 2006 c 25 s 16 are each amended to read as follows:

Unless otherwise specifically provided, the definitions in this section apply throughout this chapter.

(1) "Adjusted community rate" means the rating method used to establish the premium for health plans adjusted to reflect actuarially demonstrated differences in utilization or cost attributable to geographic region, age, family size, and use of wellness activities.

(2) "Basic health plan" means the plan described under chapter 70.47 RCW, as revised from time to time.

(3) "Basic health plan model plan" means a health plan as required in RCW 70.47.060(2)(e).

(4) "Basic health plan services" means that schedule of covered health services, including the description of how those benefits are to be administered, that are required to be delivered to an enrollee under the basic health plan, as revised from time to time.

(5) "Catastrophic health plan" means:

(a) In the case of a contract, agreement, or policy covering a single enrollee, a health benefit plan requiring a calendar year deductible of, at a minimum, one thousand ~~((five))~~ seven hundred fifty dollars and an annual out-of-pocket expense required to be paid under the plan (other than for premiums) for covered benefits of at least three thousand five hundred dollars, both amounts to be adjusted annually by the insurance commissioner; and

(b) In the case of a contract, agreement, or policy covering more than one enrollee, a health benefit plan requiring a calendar year deductible of, at a minimum, three thousand five

hundred dollars and an annual out-of-pocket expense required to be paid under the plan (other than for premiums) for covered benefits of at least ~~((five))~~ six thousand ~~((five hundred))~~ dollars, both amounts to be adjusted annually by the insurance commissioner; or

(c) Any health benefit plan that provides benefits for hospital inpatient and outpatient services, professional and prescription drugs provided in conjunction with such hospital inpatient and outpatient services, and excludes or substantially limits outpatient physician services and those services usually provided in an office setting.

In July, 2008, and in each July thereafter, the insurance commissioner shall adjust the minimum deductible and out-of-pocket expense required for a plan to qualify as a catastrophic plan to reflect the percentage change in the consumer price index for medical care for a preceding twelve months, as determined by the United States department of labor. The adjusted amount shall apply on the following January 1st.

(6) "Certification" means a determination by a review organization that an admission, extension of stay, or other health care service or procedure has been reviewed and, based on the information provided, meets the clinical requirements for medical necessity, appropriateness, level of care, or effectiveness under the auspices of the applicable health benefit plan.

(7) "Concurrent review" means utilization review conducted during a patient's hospital stay or course of treatment.

(8) "Covered person" or "enrollee" means a person covered by a health plan including an enrollee, subscriber, policyholder, beneficiary of a group plan, or individual covered by any other health plan.

(9) "Dependent" means, at a minimum, the enrollee's legal spouse and unmarried dependent children who qualify for coverage under the enrollee's health benefit plan.

(10) "Eligible employee" means an employee who works on a full-time basis with a normal work week of thirty or more hours. The term includes a self-employed individual, including a sole proprietor, a partner of a partnership, and may include an independent contractor, if the self-employed individual, sole proprietor, partner, or independent contractor is included as an employee under a health benefit plan of a small employer, but does not work less than thirty hours per week and derives at least seventy-five percent of his or her income from a trade or business through which he or she has attempted to earn taxable income and for which he or she has filed the appropriate internal revenue service form. Persons covered under a health benefit plan pursuant to the consolidated omnibus budget reconciliation act of 1986 shall not be considered eligible employees for purposes of minimum participation requirements of chapter 265, Laws of 1995.

(11) "Emergency medical condition" means the emergent and acute onset of a symptom or symptoms, including severe pain, that would lead a prudent layperson acting reasonably to believe that a health condition exists that requires immediate medical attention, if failure to provide medical attention would result in serious impairment to bodily functions or serious dysfunction of a bodily organ or part, or would place the person's health in serious jeopardy.

(12) "Emergency services" means otherwise covered health care services medically necessary to evaluate and treat an emergency medical condition, provided in a hospital emergency department.

(13) "Enrollee point-of-service cost-sharing" means amounts paid to health carriers directly providing services, health care providers, or health care facilities by enrollees and may include copayments, coinsurance, or deductibles.

(14) "Grievance" means a written complaint submitted by or on behalf of a covered person regarding: (a) Denial of payment for medical services or nonprovision of medical services included in the covered person's health benefit plan, or (b) service delivery issues other than denial of payment for medical services or nonprovision of medical services, including dissatisfaction with medical care, waiting time for medical services, provider or staff attitude or demeanor, or dissatisfaction with service provided by the health carrier.

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(15) "Health care facility" or "facility" means hospices licensed under chapter 70.127 RCW, hospitals licensed under chapter 70.41 RCW, rural health care facilities as defined in RCW 70.175.020, psychiatric hospitals licensed under chapter 71.12 RCW, nursing homes licensed under chapter 18.51 RCW, community mental health centers licensed under chapter 71.05 or 71.24 RCW, kidney disease treatment centers licensed under chapter 70.41 RCW, ambulatory diagnostic, treatment, or surgical facilities licensed under chapter 70.41 RCW, drug and alcohol treatment facilities licensed under chapter 70.96A RCW, and home health agencies licensed under chapter 70.127 RCW, and includes such facilities if owned and operated by a political subdivision or instrumentality of the state and such other facilities as required by federal law and implementing regulations.

(16) "Health care provider" or "provider" means:

(a) A person regulated under Title 18 or chapter 70.127 RCW, to practice health or health-related services or otherwise practicing health care services in this state consistent with state law; or

(b) An employee or agent of a person described in (a) of this subsection, acting in the course and scope of his or her employment.

(17) "Health care service" means that service offered or provided by health care facilities and health care providers relating to the prevention, cure, or treatment of illness, injury, or disease.

(18) "Health carrier" or "carrier" means a disability insurer regulated under chapter 48.20 or 48.21 RCW, a health care service contractor as defined in RCW 48.44.010, or a health maintenance organization as defined in RCW 48.46.020.

(19) "Health plan" or "health benefit plan" means any policy, contract, or agreement offered by a health carrier to provide, arrange, reimburse, or pay for health care services except the following:

(a) Long-term care insurance governed by chapter 48.84 RCW;

(b) Medicare supplemental health insurance governed by chapter 48.66 RCW;

(c) Coverage supplemental to the coverage provided under chapter 55, Title 10, United States Code;

(d) Limited health care services offered by limited health care service contractors in accordance with RCW 48.44.035;

(e) Disability income;

(f) Coverage incidental to a property/casualty liability insurance policy such as automobile personal injury protection coverage and homeowner guest medical;

(g) Workers' compensation coverage;

(h) Accident only coverage;

(i) Specified disease and hospital confinement indemnity when marketed solely as a supplement to a health plan;

(j) Employer-sponsored self-funded health plans;

(k) Dental only and vision only coverage; and

(l) Plans deemed by the insurance commissioner to have a short-term limited purpose or duration, or to be a student-only plan that is guaranteed renewable while the covered person is enrolled as a regular full-time undergraduate or graduate student at an accredited higher education institution, after a written request for such classification by the carrier and subsequent written approval by the insurance commissioner.

(20) "Material modification" means a change in the actuarial value of the health plan as modified of more than five percent but less than fifteen percent.

(21) "Preexisting condition" means any medical condition, illness, or injury that existed any time prior to the effective date of coverage.

(22) "Premium" means all sums charged, received, or deposited by a health carrier as consideration for a health plan or the continuance of a health plan. Any assessment or any "membership," "policy," "contract," "service," or similar fee or charge made by a health carrier in consideration for a health plan is deemed part of the premium. "Premium" shall not include amounts paid as enrollee point-of-service cost-sharing.

(23) "Review organization" means a disability insurer regulated under chapter 48.20 or 48.21 RCW, health care

service contractor as defined in RCW 48.44.010, or health maintenance organization as defined in RCW 48.46.020, and entities affiliated with, under contract with, or acting on behalf of a health carrier to perform a utilization review.

(24) "Small employer" or "small group" means any person, firm, corporation, partnership, association, political subdivision, sole proprietor, or self-employed individual that is actively engaged in business that, on at least fifty percent of its working days during the preceding calendar quarter, employed at least two but no more than fifty eligible employees, with a normal work week of thirty or more hours, the majority of whom were employed within this state, and is not formed primarily for purposes of buying health insurance and in which a bona fide employer-employee relationship exists. In determining the number of eligible employees, companies that are affiliated companies, or that are eligible to file a combined tax return for purposes of taxation by this state, shall be considered an employer. Subsequent to the issuance of a health plan to a small employer and for the purpose of determining eligibility, the size of a small employer shall be determined annually. Except as otherwise specifically provided, a small employer shall continue to be considered a small employer until the plan anniversary following the date the small employer no longer meets the requirements of this definition. A self-employed individual or sole proprietor must derive at least seventy-five percent of his or her income from a trade or business through which the individual or sole proprietor has attempted to earn taxable income and for which he or she has filed the appropriate internal revenue service form 1040, schedule C or F, for the previous taxable year except for a self-employed individual or sole proprietor in an agricultural trade or business, who must derive at least fifty-one percent of his or her income from the trade or business through which the individual or sole proprietor has attempted to earn taxable income and for which he or she has filed the appropriate internal revenue service form 1040, for the previous taxable year. A self-employed individual or sole proprietor who is covered as a group of one on the day prior to June 10, 2004, shall also be considered a "small employer" to the extent that individual or group of one is entitled to have his or her coverage renewed as provided in RCW 48.43.035(6).

(25) "Utilization review" means the prospective, concurrent, or retrospective assessment of the necessity and appropriateness of the allocation of health care resources and services of a provider or facility, given or proposed to be given to an enrollee or group of enrollees.

(26) "Wellness activity" means an explicit program of an activity consistent with department of health guidelines, such as, smoking cessation, injury and accident prevention, reduction of alcohol misuse, appropriate weight reduction, exercise, automobile and motorcycle safety, blood cholesterol reduction, and nutrition education for the purpose of improving enrollee health status and reducing health service costs.

Sec. 33. RCW 48.41.190 and 1989 c 121 s 10 are each amended to read as follows:

~~(Neither the participation by members, the establishment of rates, forms, or procedures for coverages issued by the pool, nor any other joint or collective action required by this chapter or the state of Washington shall be the basis of any legal action, civil or criminal liability or penalty against the pool, any member of the board of directors, or members of the pool either jointly or separately.)~~ The pool, members of the pool, board directors of the pool, officers of the pool, employees of the pool, the commissioner, the commissioner's representatives, and the commissioner's employees shall not be civilly or criminally liable and shall not have any penalty or cause of action of any nature arise against them for any action taken or not taken, including any discretionary decision or failure to make a discretionary decision, when the action or inaction is done in good faith and in the performance of the powers and duties under this chapter. Nothing in this section prohibits legal actions against the pool to enforce the pool's statutory or contractual duties or obligations.

Sec. 34. RCW 41.05.075 and 2006 c 103 s 3 are each amended to read as follows:

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(1) The administrator shall provide benefit plans designed by the board through a contract or contracts with insuring entities, through self-funding, self-insurance, or other methods of providing insurance coverage authorized by RCW 41.05.140.

(2) The administrator shall establish a contract bidding process that:

(a) Encourages competition among insuring entities;

(b) Maintains an equitable relationship between premiums charged for similar benefits and between risk pools including premiums charged for retired state and school district employees under the separate risk pools established by RCW 41.05.022 and 41.05.080 such that insuring entities may not avoid risk when establishing the premium rates for retirees eligible for medicare;

(c) Is timely to the state budgetary process; and

(d) Sets conditions for awarding contracts to any insuring entity.

(3) The administrator shall establish a requirement for review of utilization and financial data from participating insuring entities on a quarterly basis.

(4) The administrator shall centralize the enrollment files for all employee and retired or disabled school employee health plans offered under chapter 41.05 RCW and develop enrollment demographics on a plan-specific basis.

(5) All claims data shall be the property of the state. The administrator may require of any insuring entity that submits a bid to contract for coverage all information deemed necessary including:

(a) Subscriber or member demographic and claims data necessary for risk assessment and adjustment calculations in order to fulfill the administrator's duties as set forth in this chapter; and

(b) Subscriber or member demographic and claims data necessary to implement performance measures or financial incentives related to performance under subsection (7) of this section.

(6) All contracts with insuring entities for the provision of health care benefits shall provide that the beneficiaries of such benefit plans may use on an equal participation basis the services of practitioners licensed pursuant to chapters 18.22, 18.25, 18.32, 18.53, 18.57, 18.71, 18.74, 18.83, and 18.79 RCW, as it applies to registered nurses and advanced registered nurse practitioners. However, nothing in this subsection may preclude the administrator from establishing appropriate utilization controls approved pursuant to RCW 41.05.065(2) (a), (b), and (d).

(7) The administrator shall, in collaboration with other state agencies that administer state purchased health care programs, private health care purchasers, health care facilities, providers, and carriers:

(a) Use evidence-based medicine principles to develop common performance measures and implement financial incentives in contracts with insuring entities, health care facilities, and providers that:

(i) Reward improvements in health outcomes for individuals with chronic diseases, increased utilization of appropriate preventive health services, and reductions in medical errors; and

(ii) Increase, through appropriate incentives to insuring entities, health care facilities, and providers, the adoption and use of information technology that contributes to improved health outcomes, better coordination of care, and decreased medical errors;

(b) Through state health purchasing, reimbursement, or pilot strategies, promote and increase the adoption of health information technology systems, including electronic medical records, by hospitals as defined in RCW 70.41.020(4), integrated delivery systems, and providers that:

(i) Facilitate diagnosis or treatment;

(ii) Reduce unnecessary duplication of medical tests;

(iii) Promote efficient electronic physician order entry;

(iv) Increase access to health information for consumers and their providers; and

(v) Improve health outcomes;

(c) Coordinate a strategy for the adoption of health information technology systems using the final health

information technology report and recommendations developed under chapter 261, Laws of 2005.

(8) The administrator may permit the Washington state health insurance pool to contract to utilize any network maintained by the authority or any network under contract with the authority.

Sec. 35. RCW 70.47.020 and 2005 c 188 s 2 are each amended to read as follows:

As used in this chapter:

(1) "Washington basic health plan" or "plan" means the system of enrollment and payment for basic health care services, administered by the plan administrator through participating managed health care systems, created by this chapter.

(2) "Administrator" means the Washington basic health plan administrator, who also holds the position of administrator of the Washington state health care authority.

(3) "Health coverage tax credit program" means the program created by the Trade Act of 2002 (P.L. 107-210) that provides a federal tax credit that subsidizes private health insurance coverage for displaced workers certified to receive certain trade adjustment assistance benefits and for individuals receiving benefits from the pension benefit guaranty corporation.

(4) "Health coverage tax credit eligible enrollee" means individual workers and their qualified family members who lose their jobs due to the effects of international trade and are eligible for certain trade adjustment assistance benefits; or are eligible for benefits under the alternative trade adjustment assistance program; or are people who receive benefits from the pension benefit guaranty corporation and are at least fifty-five years old.

(5) "Managed health care system" means: (a) Any health care organization, including health care providers, insurers, health care service contractors, health maintenance organizations, or any combination thereof, that provides directly or by contract basic health care services, as defined by the administrator and rendered by duly licensed providers, to a defined patient population enrolled in the plan and in the managed health care system; or (b) a self-funded or self-insured method of providing insurance coverage to subsidized enrollees provided under RCW 41.05.140 and subject to the limitations under RCW 70.47.100(7).

(6) "Subsidized enrollee" means:

(a) An individual, or an individual plus the individual's spouse or dependent children:

~~((a))~~ (i) Who is not eligible for medicare;

~~((b))~~ (ii) Who is not confined or residing in a government-operated institution, unless he or she meets eligibility criteria adopted by the administrator;

~~((c))~~ (iii) Who is not a full-time student who has received a temporary visa to study in the United States;

~~((d))~~ (iv) Who resides in an area of the state served by a managed health care system participating in the plan;

~~((e))~~ (v) Whose gross family income at the time of enrollment does not exceed two hundred percent of the federal poverty level as adjusted for family size and determined annually by the federal department of health and human services; and

~~((f))~~ (vi) Who chooses to obtain basic health care coverage from a particular managed health care system in return for periodic payments to the plan(-);

(b) An individual who meets the requirements in (a)(i) through (iv) and (vi) of this subsection and who is a foster parent licensed under chapter 74.15 RCW and whose gross family income at the time of enrollment does not exceed three hundred percent of the federal poverty level as adjusted for family size and determined annually by the federal department of health and human services; and

(c) To the extent that state funds are specifically appropriated for this purpose, with a corresponding federal match, ("subsidized enrollee" also means) an individual, or an individual's spouse or dependent children, who meets the requirements in (a)(i) through ~~((d))~~ (iv) and ~~((f))~~ (vi) of this subsection and whose gross family income at the time of enrollment is more than two hundred percent, but less than two hundred fifty-one percent, of the federal poverty level as adjusted for family size and determined annually by the federal department of health and human services.

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(7) "Nonsubsidized enrollee" means an individual, or an individual plus the individual's spouse or dependent children: (a) Who is not eligible for medicare; (b) who is not confined or residing in a government-operated institution, unless he or she meets eligibility criteria adopted by the administrator; (c) who is accepted for enrollment by the administrator as provided in RCW 48.43.018, either because the potential enrollee cannot be required to complete the standard health questionnaire under RCW 48.43.018, or, based upon the results of the standard health questionnaire, the potential enrollee would not qualify for coverage under the Washington state health insurance pool; (d) who resides in an area of the state served by a managed health care system participating in the plan; ~~((d))~~ (e) who chooses to obtain basic health care coverage from a particular managed health care system; and ~~((e))~~ (f) who pays or on whose behalf is paid the full costs for participation in the plan, without any subsidy from the plan.

(8) "Subsidy" means the difference between the amount of periodic payment the administrator makes to a managed health care system on behalf of a subsidized enrollee plus the administrative cost to the plan of providing the plan to that subsidized enrollee, and the amount determined to be the subsidized enrollee's responsibility under RCW 70.47.060(2).

(9) "Premium" means a periodic payment, ~~((based upon gross family income))~~ which an individual, their employer or another financial sponsor makes to the plan as consideration for enrollment in the plan as a subsidized enrollee, a nonsubsidized enrollee, or a health coverage tax credit eligible enrollee.

(10) "Rate" means the amount, negotiated by the administrator with and paid to a participating managed health care system, that is based upon the enrollment of subsidized, nonsubsidized, and health coverage tax credit eligible enrollees in the plan and in that system.

Sec. 36. RCW 70.47.060 and 2006 c 343 s 9 are each amended to read as follows:

The administrator has the following powers and duties:

(1) To design and from time to time revise a schedule of covered basic health care services, including physician services, inpatient and outpatient hospital services, prescription drugs and medications, and other services that may be necessary for basic health care. In addition, the administrator may, to the extent that funds are available, offer as basic health plan services chemical dependency services, mental health services and organ transplant services; however, no one service or any combination of these three services shall increase the actuarial value of the basic health plan benefits by more than five percent excluding inflation, as determined by the office of financial management. All subsidized and nonsubsidized enrollees in any participating managed health care system under the Washington basic health plan shall be entitled to receive covered basic health care services in return for premium payments to the plan. The schedule of services shall emphasize proven preventive and primary health care and shall include all services necessary for prenatal, postnatal, and well-child care. However, with respect to coverage for subsidized enrollees who are eligible to receive prenatal and postnatal services through the medical assistance program under chapter 74.09 RCW, the administrator shall not contract for such services except to the extent that such services are necessary over not more than a one-month period in order to maintain continuity of care after diagnosis of pregnancy by the managed care provider. The schedule of services shall also include a separate schedule of basic health care services for children, eighteen years of age and younger, for those subsidized or nonsubsidized enrollees who choose to secure basic coverage through the plan only for their dependent children. In designing and revising the schedule of services, the administrator shall consider the guidelines for assessing health services under the mandated benefits act of 1984, RCW 48.47.030, and such other factors as the administrator deems appropriate.

(2)(a) To design and implement a structure of periodic premiums due the administrator from subsidized enrollees that is based upon gross family income, giving appropriate consideration to family size and the ages of all family members. The enrollment of children shall not require the enrollment of their parent or parents who are eligible for the plan. The

structure of periodic premiums shall be applied to subsidized enrollees entering the plan as individuals pursuant to subsection (11) of this section and to the share of the cost of the plan due from subsidized enrollees entering the plan as employees pursuant to subsection (12) of this section.

~~(b) To determine the periodic premiums due the administrator from subsidized enrollees under RCW 70.47.020(6)(b). Premiums due for foster parents with gross family income up to two hundred percent of the federal poverty level shall be set at the minimum premium amount charged to enrollees with income below sixty-five percent of the federal poverty level. Premiums due for foster parents with gross family income between two hundred percent and three hundred percent of the federal poverty level shall not exceed one hundred dollars per month.~~

~~(c) To determine the periodic premiums due the administrator from nonsubsidized enrollees. Premiums due from nonsubsidized enrollees shall be in an amount equal to the cost charged by the managed health care system provider to the state for the plan plus the administrative cost of providing the plan to those enrollees and the premium tax under RCW 48.14.0201.~~

~~((e)) (d) To determine the periodic premiums due the administrator from health coverage tax credit eligible enrollees. Premiums due from health coverage tax credit eligible enrollees must be in an amount equal to the cost charged by the managed health care system provider to the state for the plan, plus the administrative cost of providing the plan to those enrollees and the premium tax under RCW 48.14.0201. The administrator will consider the impact of eligibility determination by the appropriate federal agency designated by the Trade Act of 2002 (P.L. 107-210) as well as the premium collection and remittance activities by the United States internal revenue service when determining the administrative cost charged for health coverage tax credit eligible enrollees.~~

~~((e)) (e) An employer or other financial sponsor may, with the prior approval of the administrator, pay the premium, rate, or any other amount on behalf of a subsidized or nonsubsidized enrollee, by arrangement with the enrollee and through a mechanism acceptable to the administrator. The administrator shall establish a mechanism for receiving premium payments from the United States internal revenue service for health coverage tax credit eligible enrollees.~~

~~((e)) (f) To develop, as an offering by every health carrier providing coverage identical to the basic health plan, as configured on January 1, 2001, a basic health plan model plan with uniformity in enrollee cost-sharing requirements.~~

(3) To evaluate, with the cooperation of participating managed health care system providers, the impact on the basic health plan of enrolling health coverage tax credit eligible enrollees. The administrator shall issue to the appropriate committees of the legislature preliminary evaluations on June 1, 2005, and January 1, 2006, and a final evaluation by June 1, 2006. The evaluation shall address the number of persons enrolled, the duration of their enrollment, their utilization of covered services relative to other basic health plan enrollees, and the extent to which their enrollment contributed to any change in the cost of the basic health plan.

(4) To end the participation of health coverage tax credit eligible enrollees in the basic health plan if the federal government reduces or terminates premium payments on their behalf through the United States internal revenue service.

(5) To design and implement a structure of enrollee cost-sharing due a managed health care system from subsidized, nonsubsidized, and health coverage tax credit eligible enrollees. The structure shall discourage inappropriate enrollee utilization of health care services, and may utilize copayments, deductibles, and other cost-sharing mechanisms, but shall not be so costly to enrollees as to constitute a barrier to appropriate utilization of necessary health care services.

(6) To limit enrollment of persons who qualify for subsidies so as to prevent an overexpenditure of appropriations for such purposes. Whenever the administrator finds that there is danger of such an overexpenditure, the administrator shall close enrollment until the administrator finds the danger no longer

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exists. Such a closure does not apply to health coverage tax credit eligible enrollees who receive a premium subsidy from the United States internal revenue service as long as the enrollees qualify for the health coverage tax credit program.

(7) To limit the payment of subsidies to subsidized enrollees, as defined in RCW 70.47.020. The level of subsidy provided to persons who qualify may be based on the lowest cost plans, as defined by the administrator.

(8) To adopt a schedule for the orderly development of the delivery of services and availability of the plan to residents of the state, subject to the limitations contained in RCW 70.47.080 or any act appropriating funds for the plan.

(9) To solicit and accept applications from managed health care systems, as defined in this chapter, for inclusion as eligible basic health care providers under the plan for subsidized enrollees, nonsubsidized enrollees, or health coverage tax credit eligible enrollees. The administrator shall endeavor to assure that covered basic health care services are available to any enrollee of the plan from among a selection of two or more participating managed health care systems. In adopting any rules or procedures applicable to managed health care systems and in its dealings with such systems, the administrator shall consider and make suitable allowance for the need for health care services and the differences in local availability of health care resources, along with other resources, within and among the several areas of the state. Contracts with participating managed health care systems shall ensure that basic health plan enrollees who become eligible for medical assistance may, at their option, continue to receive services from their existing providers within the managed health care system if such providers have entered into provider agreements with the department of social and health services.

(10) To receive periodic premiums from or on behalf of subsidized, nonsubsidized, and health coverage tax credit eligible enrollees, deposit them in the basic health plan operating account, keep records of enrollee status, and authorize periodic payments to managed health care systems on the basis of the number of enrollees participating in the respective managed health care systems.

(11) To accept applications from individuals residing in areas served by the plan, on behalf of themselves and their spouses and dependent children, for enrollment in the Washington basic health plan as subsidized, nonsubsidized, or health coverage tax credit eligible enrollees, to give priority to members of the Washington national guard and reserves who served in Operation Enduring Freedom, Operation Iraqi Freedom, or Operation Noble Eagle, and their spouses and dependents, for enrollment in the Washington basic health plan, to establish appropriate minimum-enrollment periods for enrollees as may be necessary, and to determine, upon application and on a reasonable schedule defined by the authority, or at the request of any enrollee, eligibility due to current gross family income for sliding scale premiums. Funds received by a family as part of participation in the adoption support program authorized under RCW 26.33.320 and 74.13.100 through 74.13.145 shall not be counted toward a family's current gross family income for the purposes of this chapter. When an enrollee fails to report income or income changes accurately, the administrator shall have the authority either to bill the enrollee for the amounts overpaid by the state or to impose civil penalties of up to two hundred percent of the amount of subsidy overpaid due to the enrollee incorrectly reporting income. The administrator shall adopt rules to define the appropriate application of these sanctions and the processes to implement the sanctions provided in this subsection, within available resources. No subsidy may be paid with respect to any enrollee whose current gross family income exceeds twice the federal poverty level or, subject to RCW 70.47.110, who is a recipient of medical assistance or medical care services under chapter 74.09 RCW. If a number of enrollees drop their enrollment for no apparent good cause, the administrator may establish appropriate rules or requirements that are applicable to such individuals before they will be allowed to reenroll in the plan.

(12) To accept applications from business owners on behalf of themselves and their employees, spouses, and dependent children, as subsidized or nonsubsidized enrollees, who reside in an area served by the plan. The administrator may require all or the substantial majority of the eligible employees of such businesses to enroll in the plan and establish those procedures necessary to facilitate the orderly enrollment of groups in the plan and into a managed health care system. The administrator may require that a business owner pay at least an amount equal to what the employee pays after the state pays its portion of the subsidized premium cost of the plan on behalf of each employee enrolled in the plan. Enrollment is limited to those not eligible for medicare who wish to enroll in the plan and choose to obtain the basic health care coverage and services from a managed care system participating in the plan. The administrator shall adjust the amount determined to be due on behalf of or from all such enrollees whenever the amount negotiated by the administrator with the participating managed health care system or systems is modified or the administrative cost of providing the plan to such enrollees changes.

(13) To determine the rate to be paid to each participating managed health care system in return for the provision of covered basic health care services to enrollees in the system. Although the schedule of covered basic health care services will be the same or actuarially equivalent for similar enrollees, the rates negotiated with participating managed health care systems may vary among the systems. In negotiating rates with participating systems, the administrator shall consider the characteristics of the populations served by the respective systems, economic circumstances of the local area, the need to conserve the resources of the basic health plan trust account, and other factors the administrator finds relevant.

(14) To monitor the provision of covered services to enrollees by participating managed health care systems in order to assure enrollee access to good quality basic health care, to require periodic data reports concerning the utilization of health care services rendered to enrollees in order to provide adequate information for evaluation, and to inspect the books and records of participating managed health care systems to assure compliance with the purposes of this chapter. In requiring reports from participating managed health care systems, including data on services rendered enrollees, the administrator shall endeavor to minimize costs, both to the managed health care systems and to the plan. The administrator shall coordinate any such reporting requirements with other state agencies, such as the insurance commissioner and the department of health, to minimize duplication of effort.

(15) To evaluate the effects this chapter has on private employer-based health care coverage and to take appropriate measures consistent with state and federal statutes that will discourage the reduction of such coverage in the state.

(16) To develop a program of proven preventive health measures and to integrate it into the plan wherever possible and consistent with this chapter.

(17) To provide, consistent with available funding, assistance for rural residents, underserved populations, and persons of color.

(18) In consultation with appropriate state and local government agencies, to establish criteria defining eligibility for persons confined or residing in government-operated institutions.

(19) To administer the premium discounts provided under RCW 48.41.200(3)(a) (i) and (ii) pursuant to a contract with the Washington state health insurance pool.

(20) To give priority in enrollment to persons who disenrolled from the program in order to enroll in medicaid, and subsequently became ineligible for medicaid coverage.

Sec. 37. RCW 48.43.018 and 2004 c 244 s 3 are each amended to read as follows:

(1) Except as provided in (a) through (e) of this subsection, a health carrier may require any person applying for an individual health benefit plan and the health care authority shall require any person applying for nonsubsidized enrollment in the basic health plan to complete the standard health questionnaire designated under chapter 48.41 RCW.

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(a) If a person is seeking an individual health benefit plan or enrollment in the basic health plan as a nonsubsidized enrollee due to his or her change of residence from one geographic area in Washington state to another geographic area in Washington state where his or her current health plan is not offered, completion of the standard health questionnaire shall not be a condition of coverage if application for coverage is made within ninety days of relocation.

(b) If a person is seeking an individual health benefit plan or enrollment in the basic health plan as a nonsubsidized enrollee:

(i) Because a health care provider with whom he or she has an established care relationship and from whom he or she has received treatment within the past twelve months is no longer part of the carrier's provider network under his or her existing Washington individual health benefit plan; and

(ii) His or her health care provider is part of another carrier's or a basic health plan managed care system's provider network; and

(iii) Application for a health benefit plan under that carrier's provider network individual coverage or for basic health plan nonsubsidized enrollment is made within ninety days of his or her provider leaving the previous carrier's provider network; then completion of the standard health questionnaire shall not be a condition of coverage.

(c) If a person is seeking an individual health benefit plan or enrollment in the basic health plan as a nonsubsidized enrollee due to his or her having exhausted continuation coverage provided under 29 U.S.C. Sec. 1161 et seq., completion of the standard health questionnaire shall not be a condition of coverage if application for coverage is made within ninety days of exhaustion of continuation coverage. A health carrier or the health care authority as administrator of basic health plan nonsubsidized coverage shall accept an application without a standard health questionnaire from a person currently covered by such continuation coverage if application is made within ninety days prior to the date the continuation coverage would be exhausted and the effective date of the individual coverage applied for is the date the continuation coverage would be exhausted, or within ninety days thereafter.

(d) If a person is seeking an individual health benefit plan or enrollment in the basic health plan as a nonsubsidized enrollee due to his or her receiving notice that his or her coverage under a conversion contract is discontinued, completion of the standard health questionnaire shall not be a condition of coverage if application for coverage is made within ninety days of discontinuation of eligibility under the conversion contract. A health carrier or the health care authority as administrator of basic health plan nonsubsidized coverage shall accept an application without a standard health questionnaire from a person currently covered by such conversion contract if application is made within ninety days prior to the date eligibility under the conversion contract would be discontinued and the effective date of the individual coverage applied for is the date eligibility under the conversion contract would be discontinued, or within ninety days thereafter.

(e) If a person is seeking an individual health benefit plan ~~((and, but for the number of persons employed by his or her employer, would have qualified for))~~ or enrollment in the basic health plan as a nonsubsidized enrollee following disenrollment from a health plan that is exempt from continuation coverage provided under 29 U.S.C. Sec. 1161 et seq., completion of the standard health questionnaire shall not be a condition of coverage if: (i) ~~((Application for coverage is made within ninety days of a qualifying event as defined in 29 U.S.C. Sec. 1163; and (ii))~~) The person had at least twenty-four months of continuous group coverage including church plans immediately prior to ~~((the qualifying event. A health carrier shall accept an application without a standard health questionnaire from a person with at least twenty-four months of continuous group coverage if))~~ disenrollment; (ii) application is made no more than ninety days prior to the date of ~~((a qualifying event))~~ disenrollment; and (iii) the effective date of the individual coverage applied for is the date of ~~((the qualifying event))~~ disenrollment, or within ninety days thereafter.

~~(f) If a person is seeking an individual health benefit plan, completion of the standard health questionnaire shall not be a condition of coverage if: (i) The person had at least twenty-four months of continuous basic health plan coverage under chapter 70.47 RCW immediately prior to disenrollment; and (ii) application for coverage is made within ninety days of disenrollment from the basic health plan. A health carrier shall accept an application without a standard health questionnaire from a person with at least twenty-four months of continuous basic health plan coverage if application is made no more than ninety days prior to the date of disenrollment and the effective date of the individual coverage applied for is the date of disenrollment, or within ninety days thereafter.~~

(2) If, based upon the results of the standard health questionnaire, the person qualifies for coverage under the Washington state health insurance pool, the following shall apply:

(a) The carrier may decide not to accept the person's application for enrollment in its individual health benefit plan and the health care authority, as administrator of basic health plan nonsubsidized coverage, shall not accept the person's application for enrollment as a nonsubsidized enrollee; and

(b) Within fifteen business days of receipt of a completed application, the carrier or the health care authority as administrator of basic health plan nonsubsidized coverage shall provide written notice of the decision not to accept the person's application for enrollment to both the person and the administrator of the Washington state health insurance pool. The notice to the person shall state that the person is eligible for health insurance provided by the Washington state health insurance pool, and shall include information about the Washington state health insurance pool and an application for such coverage. If the carrier or the health care authority as administrator of basic health plan nonsubsidized coverage does not provide or postmark such notice within fifteen business days, the application is deemed approved.

(3) If the person applying for an individual health benefit plan: (a) Does not qualify for coverage under the Washington state health insurance pool based upon the results of the standard health questionnaire; (b) does qualify for coverage under the Washington state health insurance pool based upon the results of the standard health questionnaire and the carrier elects to accept the person for enrollment; or (c) is not required to complete the standard health questionnaire designated under this chapter under subsection (1)(a) or (b) of this section, the carrier or the health care authority as administrator of basic health plan nonsubsidized coverage, whichever entity administered the standard health questionnaire, shall accept the person for enrollment if he or she resides within the carrier's or the basic health plan's service area and provide or assure the provision of all covered services regardless of age, sex, family structure, ethnicity, race, health condition, geographic location, employment status, socioeconomic status, other condition or situation, or the provisions of RCW 49.60.174(2). The commissioner may grant a temporary exemption from this subsection if, upon application by a health carrier, the commissioner finds that the clinical, financial, or administrative capacity to serve existing enrollees will be impaired if a health carrier is required to continue enrollment of additional eligible individuals.

Sec. 38. RCW 43.70.670 and 2003 c 274 s 2 are each amended to read as follows:

(1) "Human immunodeficiency virus insurance program," as used in this section, means a program that provides health insurance coverage for individuals with human immunodeficiency virus, as defined in RCW 70.24.017(7), who are not eligible for medical assistance programs from the department of social and health services as defined in RCW 74.09.010(8) and meet eligibility requirements established by the department of health.

(2) The department of health may pay for health insurance coverage on behalf of persons with human immunodeficiency virus, who meet department eligibility requirements, and who are eligible for "continuation coverage" as provided by the federal consolidated omnibus budget reconciliation act of 1985,

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group health insurance policies, or individual policies. ((The number of insurance policies supported by this program in the Washington state health insurance pool as defined in RCW 48.41.030(18) shall not grow beyond the July 1, 2003, level.))

PREVENTION AND HEALTH PROMOTION

NEW SECTION. Sec. 39. (1) The Washington state health care authority, the department of social and health services, the department of labor and industries, and the department of health shall, by September 1, 2007, develop a five-year plan to integrate disease and accident prevention and health promotion into state purchased health programs that they administer by:

(a) Structuring benefits and reimbursements to promote healthy choices and disease and accident prevention;

(b) Encouraging enrollees in state health programs to complete a health assessment, and providing appropriate follow up;

(c) Reimbursing for cost-effective prevention activities; and

(d) Developing prevention and health promotion contracting standards for state programs that contract with health carriers.

(2) The plan shall: (a) Identify any existing barriers and opportunities to support implementation, including needed changes to state or federal law; (b) identify the goals the plan is intended to achieve and how progress towards those goals will be measured and reported; and (c) be submitted to the governor and the legislature upon completion.

Sec. 40. RCW 41.05.540 and 2005 c 360 s 8 are each amended to read as follows:

(1) The health care authority, in coordination with ~~((the department of personnel,))~~ the department of health, health plans participating in public employees' benefits board programs, and the University of Washington's center for health promotion, ~~((may create a worksite health promotion program to develop and implement initiatives designed to increase physical activity and promote improved self-care and engagement in health care decision-making among state employees.~~

~~((2) The health care authority shall report to the governor and the legislature by December 1, 2006, on progress in implementing, and evaluating the results of, the worksite health promotion program)) shall establish and maintain a state employee health program focused on reducing the health risks and improving the health status of state employees, dependents, and retirees enrolled in the public employees' benefits board. The program shall use public and private sector best practices to achieve goals of measurable health outcomes, measurable productivity improvements, positive impact on the cost of medical care, and positive return on investment. The program shall establish standards for health promotion and disease prevention activities, and develop a mechanism to update standards as evidence-based research brings new information and best practices forward.~~

~~((2) The state employee health program shall:~~

~~((a) Provide technical assistance and other services as needed to wellness staff in all state agencies and institutions of higher education;~~

~~((b) Develop effective communication tools and ongoing training for wellness staff;~~

~~((c) Contract with outside vendors for evaluation of program goals;~~

~~((d) Strongly encourage the widespread completion of online health assessment tools for all state employees, dependents, and retirees. The health assessment tool must be voluntary and confidential. Health assessment data and claims data shall be used to:~~

~~((i) Engage state agencies and institutions of higher education in providing evidence-based programs targeted at reducing identified health risks;~~

~~((ii) Guide contracting with third-party vendors to implement behavior change tools for targeted high-risk populations; and~~

~~((iii) Guide the benefit structure for state employees, dependents, and retirees to include covered services and medications known to manage and reduce health risks.~~

(3) The health care authority shall report to the legislature in December 2008 and December 2010 on outcome goals for the employee health program.

NEW SECTION. Sec. 41. A new section is added to chapter 41.05 RCW to read as follows:

(1) The health care authority through the state employee health program shall implement a state employee health demonstration project. The agencies selected must: (a) Show a high rate of health risk assessment completion; (b) document an infrastructure capable of implementing employee health programs using current and emerging best practices; (c) show evidence of senior management support; and (d) together employ a total of no more than eight thousand employees who are enrolled in health plans of the public employees' benefits board. Demonstration project agencies shall operate employee health programs for their employees in collaboration with the state employee health program.

(2) Agency demonstration project employee health programs:

(a) Shall include but are not limited to the following key elements: Outreach to all staff with efforts made to reach the largest percentage of employees possible; awareness-building information that promotes health; motivational opportunities that encourage employees to improve their health; behavior change opportunities that demonstrate and support behavior change; and tools to improve employee health care decisions;

(b) Must have wellness staff with direct accountability to agency senior management;

(c) Shall initiate and maintain employee health programs using current and emerging best practices in the field of health promotion;

(d) May offer employees such incentives as cash for completing health risk assessments, free preventive screenings, training in behavior change tools, improved nutritional standards on agency campuses, bike racks, walking maps, on-site weight reduction programs, and regular communication to promote personal health awareness.

(3) The state employee health program shall evaluate each of the four programs separately and compare outcomes for each of them with the entire state employee population to assess effectiveness of the programs. Specifically, the program shall measure at least the following outcomes in the demonstration population: The reduction in the percent of the population that is overweight or obese, the reduction in risk factors related to diabetes, the reduction in risk factors related to absenteeism, the reduction in tobacco consumption, and the increase in appropriate use of preventive health services. The state employee health program shall report to the legislature in December 2008 and December 2010 on the demonstration project.

(4) This section expires June 30, 2011.

PRESCRIPTION MONITORING PROGRAM

NEW SECTION. Sec. 42. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Controlled substance" has the meaning provided in RCW 69.50.101.

(2) "Department" means the department of health.

(3) "Patient" means the person or animal who is the ultimate user of a drug for whom a prescription is issued or for whom a drug is dispensed.

(4) "Dispenser" means a practitioner or pharmacy that delivers a Schedule II, III, IV, or V controlled substance to the ultimate user, but does not include:

(a) A practitioner or other authorized person who administers, as defined in RCW 69.41.010, a controlled substance; or

(b) A licensed wholesale distributor or manufacturer, as defined in chapter 18.64 RCW, of a controlled substance.

NEW SECTION. Sec. 43. (1) When sufficient funding is provided for such purpose through federal or private grants, or is appropriated by the legislature, the department shall establish and maintain a prescription monitoring program to monitor the

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prescribing and dispensing of all Schedules II, III, IV, and V controlled substances and any additional drugs identified by the board of pharmacy as demonstrating a potential for abuse by all professionals licensed to prescribe or dispense such substances in this state. The program shall be designed to improve health care quality and effectiveness by reducing abuse of controlled substances, reducing duplicative prescribing and over-prescribing of controlled substances, and improving controlled substance prescribing practices with the intent of eventually establishing an electronic database available in real time to dispensers and prescribers of controlled substances. As much as possible, the department should establish a common database with other states.

(2) Except as provided in subsection (4) of this section, each dispenser shall submit to the department by electronic means information regarding each prescription dispensed for a drug included under subsection (1) of this section. Drug prescriptions for more than immediate one day use should be reported. The information submitted for each prescription shall include, but not be limited to:

- (a) Patient identifier;
- (b) Drug dispensed;
- (c) Date of dispensing;
- (d) Quantity dispensed;
- (e) Prescriber; and
- (f) Dispenser.

(3) Each dispenser shall submit the information in accordance with transmission methods established by the department.

(4) The data submission requirements of this section do not apply to:

(a) Medications provided to patients receiving inpatient services provided at hospitals licensed under chapter 70.41 RCW; or patients of such hospitals receiving services at the clinics, day surgery areas, or other settings within the hospital's license where the medications are administered in single doses; or

(b) Pharmacies operated by the department of corrections for the purpose of providing medications to offenders in department of corrections institutions who are receiving pharmaceutical services from a department of corrections pharmacy, except that the department of corrections must submit data related to each offender's current prescriptions for controlled substances upon the offender's release from a department of corrections institution.

(5) The department shall seek federal grants to support the activities described in this act. The department may not require a practitioner or a pharmacist to pay a fee or tax specifically dedicated to the operation of the system.

NEW SECTION. Sec. 44. To the extent that funding is provided for such purpose through federal or private grants, or is appropriated by the legislature, the department shall study the feasibility of enhancing the prescription monitoring program established in section 43 of this act in order to improve the quality of state purchased health services by reducing legend drug abuse, reducing duplicative and overprescribing of legend drugs, and improving legend drug prescribing practices. The study shall address the steps necessary to expand the program to allow those who prescribe or dispense prescription drugs to perform a web-based inquiry and obtain real time information regarding the legend drug utilization history of persons for whom they are providing medical or pharmaceutical care when such persons are receiving health services through state purchased health care programs.

NEW SECTION. Sec. 45. (1) Prescription information submitted to the department shall be confidential, in compliance with chapter 70.02 RCW and federal health care information privacy requirements and not subject to disclosure, except as provided in subsections (3) and (4) of this section.

(2) The department shall maintain procedures to ensure that the privacy and confidentiality of patients and patient information collected, recorded, transmitted, and maintained is not disclosed to persons except as in subsections (3) and (4) of this section.

(3) The department may provide data in the prescription monitoring program to the following persons:

(a) Persons authorized to prescribe or dispense controlled substances, for the purpose of providing medical or pharmaceutical care for their patients;

(b) An individual who requests the individual's own prescription monitoring information;

(c) Health professional licensing, certification, or regulatory agency or entity;

(d) Appropriate local, state, and federal law enforcement or prosecutorial officials who are engaged in a bona fide specific investigation involving a designated person;

(e) Authorized practitioners of the department of social and health services regarding medicaid program recipients;

(f) The director or director's designee within the department of labor and industries regarding workers' compensation claimants;

(g) The director or the director's designee within the department of corrections regarding offenders committed to the department of corrections;

(h) Other entities under grand jury subpoena or court order; and

(i) Personnel of the department for purposes of administration and enforcement of this chapter or chapter 69.50 RCW.

(4) The department may provide data to public or private entities for statistical, research, or educational purposes after removing information that could be used to identify individual patients, dispensers, prescribers, and persons who received prescriptions from dispensers.

(5) A dispenser or practitioner acting in good faith is immune from any civil, criminal, or administrative liability that might otherwise be incurred or imposed for requesting, receiving, or using information from the program.

NEW SECTION. Sec. 46. The department may contract with another agency of this state or with a private vendor, as necessary, to ensure the effective operation of the prescription monitoring program. Any contractor is bound to comply with the provisions regarding confidentiality of prescription information in section 45 of this act and is subject to the penalties specified in section 48 of this act for unlawful acts.

NEW SECTION. Sec. 47. The department shall adopt rules to implement this chapter.

NEW SECTION. Sec. 48. (1) A dispenser who knowingly fails to submit prescription monitoring information to the department as required by this chapter or knowingly submits incorrect prescription information is subject to disciplinary action under chapter 18.130 RCW.

(2) A person authorized to have prescription monitoring information under this chapter who knowingly discloses such information in violation of this chapter is subject to civil penalty.

(3) A person authorized to have prescription monitoring information under this chapter who uses such information in a manner or for a purpose in violation of this chapter is subject to civil penalty.

(4) In accordance with chapter 70.02 RCW and federal health care information privacy requirements, any physician or pharmacist authorized to access a patient's prescription monitoring may discuss or release that information to other health care providers involved with the patient in order to provide safe and appropriate care coordination.

Sec. 49. RCW 42.56.360 and 2006 c 209 s 9 and 2006 c 8 s 112 are each reenacted and amended to read as follows:

(1) The following health care information is exempt from disclosure under this chapter:

(a) Information obtained by the board of pharmacy as provided in RCW 69.45.090;

(b) Information obtained by the board of pharmacy or the department of health and its representatives as provided in RCW 69.41.044, 69.41.280, and 18.64.420;

(c) Information and documents created specifically for, and collected and maintained by a quality improvement committee under RCW 43.70.510 or 70.41.200, or by a peer review committee under RCW 4.24.250, or by a quality assurance

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committee pursuant to RCW 74.42.640 or 18.20.390, and notifications or reports of adverse events or incidents made under RCW 70.56.020 or 70.56.040, regardless of which agency is in possession of the information and documents;

(d)(i) Proprietary financial and commercial information that the submitting entity, with review by the department of health, specifically identifies at the time it is submitted and that is provided to or obtained by the department of health in connection with an application for, or the supervision of, an antitrust exemption sought by the submitting entity under RCW 43.72.310;

(ii) If a request for such information is received, the submitting entity must be notified of the request. Within ten business days of receipt of the notice, the submitting entity shall provide a written statement of the continuing need for confidentiality, which shall be provided to the requester. Upon receipt of such notice, the department of health shall continue to treat information designated under this subsection (1)(d) as exempt from disclosure;

(iii) If the requester initiates an action to compel disclosure under this chapter, the submitting entity must be joined as a party to demonstrate the continuing need for confidentiality;

(e) Records of the entity obtained in an action under RCW 18.71.300 through 18.71.340;

(f) Except for published statistical compilations and reports relating to the infant mortality review studies that do not identify individual cases and sources of information, any records or documents obtained, prepared, or maintained by the local health department for the purposes of an infant mortality review conducted by the department of health under RCW 70.05.170; ~~(and)~~

(g) Complaints filed under chapter 18.130 RCW after July 27, 1997, to the extent provided in RCW 18.130.095(1); and

(h) Information obtained by the department of health under chapter 70.-- RCW (sections 42 through 48 of this act).

(2) Chapter 70.02 RCW applies to public inspection and copying of health care information of patients.

STRATEGIC HEALTH PLANNING

NEW SECTION. Sec. 50. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Health care provider" means an individual who holds a license issued by a disciplining authority identified in RCW 18.130.040 and who practices his or her profession in a health care facility or provides a health service.

(2) "Health facility" or "facility" means hospices licensed under chapter 70.127 RCW, hospitals licensed under chapter 70.41 RCW, rural health care facilities as defined in RCW 70.175.020, psychiatric hospitals licensed under chapter 71.12 RCW, nursing homes licensed under chapter 18.51 RCW, community mental health centers licensed under chapter 71.05 or 71.24 RCW, kidney disease treatment centers, ambulatory diagnostic, treatment, or surgical facilities, drug and alcohol treatment facilities licensed under chapter 70.96A RCW, and home health agencies licensed under chapter 70.127 RCW, and includes such facilities if owned and operated by a political subdivision, including a public hospital district, or instrumentality of the state and such other facilities as required by federal law and implementing regulations.

(3) "Health service" or "service" means that service, including primary care service, offered or provided by health care facilities and health care providers relating to the prevention, cure, or treatment of illness, injury, or disease.

(4) "Health service area" means a geographic region appropriate for effective health planning that includes a broad range of health services.

(5) "Office" means the office of financial management.

(6) "Strategy" means the statewide health resources strategy.

NEW SECTION. Sec. 51. (1) The office shall serve as a coordinating body for public and private efforts to improve quality in health care, promote cost-effectiveness in health care, and plan health facility and health service availability. In addition, the office shall facilitate access to health care data

collected by public and private organizations as needed to conduct its planning responsibilities.

(2) The office shall:

(a) Conduct strategic health planning activities related to the preparation of the strategy, as specified in this chapter;

(b) Develop a computerized system for accessing, analyzing, and disseminating data relevant to strategic health planning responsibilities. The office may contract with an organization to create the computerized system capable of meeting the needs of the office;

(c) Maintain access to deidentified data collected and stored by any public and private organizations as necessary to support its planning responsibilities, including state-purchased health care program data, hospital discharge data, and private efforts to collect utilization and claims-related data. The office is authorized to enter into any data sharing agreements and contractual arrangements necessary to obtain data or to distribute data. Among the sources of deidentified data that the office may access are any databases established pursuant to the recommendations of the health information infrastructure advisory board established by chapter 261, Laws of 2005. The office may store limited data sets as necessary to support its activities. Unless specifically authorized, the office shall not collect data directly from the records of health care providers and health care facilities, but shall make use of databases that have already collected such information; and

(d) Conduct research and analysis or arrange for research and analysis projects to be conducted by public or private organizations to further the purposes of the strategy.

(3) The office shall establish a technical advisory committee to assist in the development of the strategy. Members of the committee shall include health economists, health planners, representatives of government and nongovernment health care purchasers, representatives of state agencies that use or regulate entities with an interest in health planning, representatives of acute care facilities, representatives of long-term care facilities, representatives of community-based long-term care providers, representatives of health care providers, a representative of one or more federally recognized Indian tribes, and representatives of health care consumers. The committee shall include members with experience in the provision of health services to rural communities.

NEW SECTION. Sec. 52. (1) The office, in consultation with the technical advisory committee established under section 51 of this act, shall develop a statewide health resources strategy. The strategy shall establish statewide health planning policies and goals related to the availability of health care facilities and services, quality of care, and cost of care. The strategy shall identify needs according to geographic regions suitable for comprehensive health planning as designated by the office.

(2) The development of the strategy shall consider the following general goals and principles:

(a) That excess capacity of health services and facilities place considerable economic burden on the public who pay for the construction and operation of these facilities as patients, health insurance purchasers, carriers, and taxpayers; and

(b) That the development and ongoing maintenance of current and accurate health care information and statistics related to cost and quality of health care, as well as projections of need for health facilities and services, are essential to effective strategic health planning.

(3) The strategy, with public input by health service areas, shall include:

(a) A health system assessment and objectives component that:

(i) Describes state and regional population demographics, health status indicators, and trends in health status and health care needs; and

(ii) Identifies key policy objectives for the state health system related to access to care, health outcomes, quality, and cost-effectiveness;

(b) A health care facilities and services plan that shall assess the demand for health care facilities and services to inform state health planning efforts and direct certificate of need

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determinations, for those facilities and services subject to certificate of need as provided in chapter 70.38 RCW. The plan shall include:

(i) An inventory of each geographic region's existing health care facilities and services;

(ii) Projections of need for each category of health care facility and service, including those subject to certificate of need;

(iii) Policies to guide the addition of new or expanded health care facilities and services to promote the use of quality, evidence-based, cost-effective health care delivery options, including any recommendations for criteria, standards, and methods relevant to the certificate of need review process; and

(iv) An assessment of the availability of health care providers, public health resources, transportation infrastructure, and other considerations necessary to support the needed health care facilities and services in each region;

(c) A health care data resource plan that identifies data elements necessary to properly conduct planning activities and to review certificate of need applications, including data related to inpatient and outpatient utilization and outcomes information, and financial and utilization information related to charity care, quality, and cost. The plan shall inventory existing data resources, both public and private, that store and disclose information relevant to the health planning process, including information necessary to conduct certificate of need activities pursuant to chapter 70.38 RCW. The plan shall identify any deficiencies in the inventory of existing data resources and the data necessary to conduct comprehensive health planning activities. The plan may recommend that the office be authorized to access existing data sources and conduct appropriate analyses of such data or that other agencies expand their data collection activities as statutory authority permits. The plan may identify any computing infrastructure deficiencies that impede the proper storage, transmission, and analysis of health planning data. The plan shall provide recommendations for increasing the availability of data related to health planning to provide greater community involvement in the health planning process and consistency in data used for certificate of need applications and determinations;

(d) An assessment of emerging trends in health care delivery and technology as they relate to access to health care facilities and services, quality of care, and costs of care. The assessment shall recommend any changes to the scope of health care facilities and services covered by the certificate of need program that may be warranted by these emerging trends. In addition, the assessment may recommend any changes to criteria used by the department to review certificate of need applications, as necessary;

(e) A rural health resource plan to assess the availability of health resources in rural areas of the state, assess the unmet needs of these communities, and evaluate how federal and state reimbursement policies can be modified, if necessary, to more efficiently and effectively meet the health care needs of rural communities. The plan shall consider the unique health care needs of rural communities, the adequacy of the rural health workforce, and transportation needs for accessing appropriate care.

(4) The office shall submit the initial strategy to the governor by January 1, 2010. Every two years the office shall submit an updated strategy. The health care facilities and services plan as it pertains to a distinct geographic planning region may be updated by individual categories on a rotating, biannual schedule.

(5) The office shall hold at least one public hearing and allow opportunity to submit written comments prior to the issuance of the initial strategy or an updated strategy. A public hearing shall be held prior to issuing a draft of an updated health care facilities and services plan, and another public hearing shall be held before final adoption of an updated health care facilities and services plan. Any hearing related to updating a health care facilities and services plan for a specific planning region shall be held in that region with sufficient notice to the public and an opportunity to comment.

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NEW SECTION. Sec. 53. The office shall submit the strategy to the department of health to direct its activities related to the certificate of need review program under chapter 70.38 RCW. As the health care facilities and services plan is updated for any specific geographic planning region, the office shall submit that plan to the department of health to direct its activities related to the certificate of need review program under chapter 70.38 RCW. The office shall not issue determinations of the merits of specific project proposals submitted by applicants for certificates of need.

NEW SECTION. Sec. 54. (1) The office may respond to requests for data and other information from its computerized system for special studies and analysis consistent with requirements for confidentiality of patient, provider, and facility-specific records. The office may require requestors to pay any or all of the reasonable costs associated with such requests that might be approved.

(2) Data elements related to the identification of individual patient's, provider's, and facility's care outcomes are confidential, are exempt from RCW 42.56.030 through 42.56.570 and 42.17.350 through 42.17.450, and are not subject to discovery by subpoena or admissible as evidence.

Sec. 55. RCW 70.38.015 and 1989 1st ex.s. c 9 s 601 are each amended to read as follows:

It is declared to be the public policy of this state:

(1) That strategic health planning ((to)) efforts must be supported by appropriately tailored regulatory activities that can effectuate the goals and principles of the statewide health resources strategy developed pursuant to chapter 43-- RCW (sections 50 through 54 of this act). The implementation of the strategy can promote, maintain, and assure the health of all citizens in the state, ((to)) provide accessible health services, health manpower, health facilities, and other resources while controlling ((excessive)) increases in costs, and ((to)) recognize prevention as a high priority in health programs((--is essential to the health, safety, and welfare of the people of the state. Health planning should be responsive to changing health and social needs and conditions)). Involvement in health planning from both consumers and providers throughout the state should be encouraged;

(2) ~~((That the development of health services and resources, including the construction, modernization, and conversion of health facilities, should be accomplished in a planned, orderly fashion, consistent with identified priorities and without unnecessary duplication or fragmentation))~~ That the certificate of need program is a component of a health planning regulatory process that is consistent with the statewide health resources strategy and public policy goals that are clearly articulated and regularly updated;

(3) That the development and maintenance of adequate health care information, statistics and projections of need for health facilities and services is essential to effective health planning and resources development;

(4) That the development of nonregulatory approaches to health care cost containment should be considered, including the strengthening of price competition; and

(5) That health planning should be concerned with public health and health care financing, access, and quality, recognizing their close interrelationship and emphasizing cost control of health services, including cost-effectiveness and cost-benefit analysis.

NEW SECTION. Sec. 56. (1) For the purposes of this section and RCW 70.38.015 and 70.38.135, "statewide health resource strategy" or "strategy" means the statewide health resource strategy developed by the office of financial management pursuant to chapter 43-- RCW (sections 50 through 54 of this act).

(2) Effective January 1, 2010, for those facilities and services covered by the certificate of need programs, certificate of need determinations must be consistent with the statewide health resources strategy developed pursuant to section 52 of this act, including any health planning policies and goals identified in the statewide health resources strategy in effect at the time of application. The department may waive specific terms of the strategy if the applicant demonstrates that

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consistency with those terms will create an undue burden on the population that a particular project would serve, or in emergency circumstances which pose a threat to public health.

Sec. 57. RCW 70.38.135 and 1989 1st ex.s. c 9 s 607 are each amended to read as follows:

The secretary shall have authority to:

(1) Provide when needed temporary or intermittent services of experts or consultants or organizations thereof, by contract, when such services are to be performed on a part time or fee-for-service basis;

(2) Make or cause to be made such on-site surveys of health care or medical facilities as may be necessary for the administration of the certificate of need program;

(3) Upon review of recommendations, if any, from the board of health or the office of financial management as contained in the Washington health resources strategy:

(a) Promulgate rules under which health care facilities providers doing business within the state shall submit to the department such data related to health and health care as the department finds necessary to the performance of its functions under this chapter;

(b) Promulgate rules pertaining to the maintenance and operation of medical facilities which receive federal assistance under the provisions of Title XVI;

(c) Promulgate rules in implementation of the provisions of this chapter, including the establishment of procedures for public hearings for predecisions and post-decisions on applications for certificate of need;

(d) Promulgate rules providing circumstances and procedures of expedited certificate of need review if there has not been a significant change in existing health facilities of the same type or in the need for such health facilities and services;

(4) Grant allocated state funds to qualified entities, as defined by the department, to fund not more than seventy-five percent of the costs of regional planning activities, excluding costs related to review of applications for certificates of need, provided for in this chapter or approved by the department; and

(5) Contract with and provide reasonable reimbursement for qualified entities to assist in determinations of certificates of need.

HEALTH INSURANCE PARTNERSHIP

Sec. 58. RCW 70.47A.010 and 2006 c 255 s 1 are each amended to read as follows:

(1) The legislature finds that many small employers struggle with the cost of providing employer-sponsored health insurance coverage to their employees, while others are unable to offer employer-sponsored health insurance due to its high cost. Low-wage workers also struggle with the burden of paying their share of the costs of employer-sponsored health insurance, while others turn down their employer's offer of coverage due to its costs.

(2) The legislature intends, through establishment of a ~~((small employer))~~ health insurance partnership program, to remove economic barriers to health insurance coverage for low-wage employees of small employers by building on the private sector health benefit plan system and encouraging employer and employee participation in employer-sponsored health benefit plan coverage.

Sec. 59. RCW 70.47A.020 and 2006 c 255 s 2 are each amended to read as follows:

The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Administrator" means the administrator of the Washington state health care authority, established under chapter 41.05 RCW.

(2) "Board" means the health insurance partnership board established in section 61 of this act.

(3) "Eligible ~~((employee))~~ partnership participant" means an individual who:

(a) Is a resident of the state of Washington;

(b) Has family income ~~((less than))~~ that does not exceed two hundred percent of the federal poverty level, as determined

annually by the federal department of health and human services; and

(c) Is employed by a participating small employer or is a former employee of a participating small employer who chooses to continue receiving coverage through the partnership following separation from employment.

~~((3))~~ (4) "Health benefit plan" has the same meaning as defined in RCW 48.43.005 ~~((or any plan provided by a self-funded multiple employer welfare arrangement as defined in RCW 48.125.010 or by another benefit arrangement defined in the federal employee retirement income security act of 1974, as amended)).~~

~~((4))~~ "Program" (5) "Participating small employer" means a small employer that employs at least one eligible partnership participant and has entered into an agreement with the partnership for the partnership to offer and administer the small employer's group health benefit plan, as defined in federal law, Sec. 706 of ERISA (29 U.S.C. Sec. 1167), for enrollees in the plan.

(6) "Partnership" means the ~~((small employer))~~ health insurance partnership ~~((program))~~ established in RCW 70.47A.030.

~~((5))~~ (7) "Partnership participant" means an employee of a participating small employer, or a former employee of a participating small employer who chooses to continue receiving coverage through the partnership following separation from employment.

(8) "Small employer" has the same meaning as defined in RCW 48.43.005.

~~((6))~~ (9) "Subsidy" or "premium subsidy" means payment or reimbursement to an eligible ~~((employee))~~ partnership participant toward the purchase of a health benefit plan, and may include a net billing arrangement with insurance carriers or a prospective or retrospective payment for health benefit plan premiums.

Sec. 60. RCW 70.47A.030 and 2006 c 255 s 3 are each amended to read as follows:

(1) To the extent funding is appropriated in the operating budget for this purpose, the ~~((small employer))~~ health insurance partnership ~~((program))~~ is established. The administrator shall be responsible for the implementation and operation of the ~~((small employer))~~ health insurance partnership ~~((program))~~, directly or by contract. The administrator shall offer premium subsidies to eligible ~~((employees))~~ partnership participants under RCW 70.47A.040.

(2) Consistent with policies adopted by the board under section 61 of this act, the administrator shall, directly or by contract:

(a) Establish and administer procedures for enrolling small employers in the partnership, including publicizing the existence of the partnership and disseminating information on enrollment, and establishing rules related to minimum participation of employees in small groups purchasing health insurance through the partnership. Opportunities to publicize the program for outreach and education of small employers on the value of insurance shall explore the use of online employer guides. As a condition of participating in the partnership, a small employer must agree to establish a cafeteria plan under section 125 of the federal internal revenue code that will enable employees to use pretax dollars to pay their share of their health benefit plan premium. The partnership shall provide technical assistance to small employers for this purpose;

(b) Establish and administer procedures for health benefit plan enrollment by employees of small employers during open enrollment periods and outside of open enrollment periods upon the occurrence of any qualifying event specified in the federal health insurance portability and accountability act of 1996 or applicable state law. Neither the employer nor the partnership shall limit an employee's choice of coverage from among all the health benefit plans offered;

(c) Establish and manage a system for the partnership to be designated as the sponsor or administrator of a participating small employer health benefit plan and to undertake the obligations required of a plan administrator under federal law;

(d) Establish and manage a system of collecting and transmitting to the applicable carriers all premium payments or

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contributions made by or on behalf of partnership participants, including employer contributions, automatic payroll deductions for partnership participants, premium subsidy payments, and contributions from philanthropies;

(e) Establish and manage a system for determining eligibility for and making premium subsidy payments under this act;

(f) Establish a mechanism to apply a surcharge to all health benefit plans, which shall be used only to pay for administrative and operational expenses of the partnership. The surcharge must be applied uniformly to all health benefit plans offered through the partnership and must be included in the premium for each health benefit plan. Surcharges may not be used to pay any premium assistance payments under this chapter;

(g) Design a schedule of premium subsidies that is based upon gross family income, giving appropriate consideration to family size and the ages of all family members based on a benchmark health benefit plan designated by the board. The amount of an eligible partnership participant's premium subsidy shall be determined by applying a sliding scale subsidy schedule with the percentage of premium similar to that developed for subsidized basic health plan enrollees under RCW 70.47.060. The subsidy shall be applied to the employee's premium obligation for his or her health benefit plan, so that employees benefit financially from any employer contribution to the cost of their coverage through the partnership.

(3) The administrator may enter into interdepartmental agreements with the office of the insurance commissioner, the department of social and health services, and any other state agencies necessary to implement this chapter.

NEW SECTION. Sec. 61. A new section is added to chapter 70.47A RCW to read as follows:

(1) The health insurance partnership board is hereby established. The governor shall appoint a nine-member board composed as follows:

- (a) Two representatives of small employers;
- (b) Two representatives of employees of small employers, one of whom shall represent low-wage employees;
- (c) Four employee health plan benefits specialists; and
- (d) The administrator.

(2) The governor shall appoint the initial members of the board to staggered terms not to exceed four years. Initial appointments shall be made on or before June 1, 2007. Members appointed thereafter shall serve two-year terms. Members of the board shall be compensated in accordance with RCW 43.03.250 and shall be reimbursed for their travel expenses while on official business in accordance with RCW 43.03.050 and 43.03.060. The board shall prescribe rules for the conduct of its business. The administrator shall be chair of the board. Meetings of the board shall be at the call of the chair.

(3) The board may establish technical advisory committees or seek the advice of technical experts when necessary to execute the powers and duties included in this section.

(4) The board and employees of the board shall not be civilly or criminally liable and shall not have any penalty or cause of action of any nature arise against them for any action taken or not taken, including any discretionary decision or failure to make a discretionary decision, when the action or inaction is done in good faith and in the performance of the powers and duties under this chapter. Nothing in this section prohibits legal actions against the board to enforce the board's statutory or contractual duties or obligations.

NEW SECTION. Sec. 62. A new section is added to chapter 70.47A RCW to read as follows:

(1) The health insurance partnership board shall:

(a) Develop policies for enrollment of small employers in the partnership, including minimum participation rules for small employer groups. The small employer shall determine the criteria for eligibility and enrollment in his or her plan and the terms and amounts of the employer's contributions to that plan, consistent with any minimum employer premium contribution level established by the board under (d) of this subsection;

(b) Designate health benefit plans that are currently offered in the small group market that will qualify for premium subsidy payments. At least four health benefit plans shall be chosen, with multiple deductible and point-of-service cost-sharing

options. The health benefit plans shall range from catastrophic to comprehensive coverage, and one health benefit plan shall be a high deductible health plan. Every effort shall be made to include health benefit plans that include components to maximize the quality of care provided and result in improved health outcomes, such as preventive care, wellness incentives, chronic care management services, and provider network development and payment policies related to quality of care;

(c) Approve a mid-range benefit plan from those selected to be used as a benchmark plan for calculating premium subsidies;

(d) Determine whether there should be a minimum employer premium contribution on behalf of employees, and if so, how much;

(e) Determine appropriate health benefit plan rating methodologies. The methodologies shall be based on the small group adjusted community rate as defined in Title 48 RCW. The board shall evaluate the impact of applying the small group community rating with the partnership principle of allowing each employee to choose their health benefit plan, and consider options to reduce uncertainty for carriers and provide for efficient risk management of high-cost enrollees through risk adjustment, reinsurance, or other mechanisms;

(f) Conduct analyses and provide recommendations as requested by the legislature and the governor, with the assistance of staff from the health care authority and the office of the insurance commissioner.

(2) The board may authorize one or more limited health care service plans for dental care services to be offered by limited health care service contractors under RCW 48.44.035. However, such plan shall not qualify for subsidy payments.

(3) In fulfilling the requirements of this section, the board shall consult with small employers, the office of the insurance commissioner, members in good standing of the American academy of actuaries, health carriers, agents and brokers, and employees of small business.

Sec. 63. RCW 70.47A.040 and 2006 c 255 s 4 are each amended to read as follows:

~~((1))~~ Beginning ~~(July 1, 2007)~~ September 1, 2008, the administrator shall accept applications from eligible ~~((employees))~~ partnership participants, on behalf of themselves, their spouses, and their dependent children, to receive premium subsidies through the ~~((small employer))~~ health insurance partnership ~~((program))~~.

~~((2))~~ Premium subsidy payments may be provided to eligible employees if:

~~(a) The eligible employee is employed by a small employer;~~
~~(b) The actuarial value of the health benefit plan offered by the small employer is at least equivalent to that of the basic health plan benefit offered under chapter 70.47 RCW. The office of the insurance commissioner under Title 48 RCW shall certify those small employer health benefit plans that are at least actuarially equivalent to the basic health plan benefit; and~~
~~(c) The small employer will pay at least forty percent of the monthly premium cost for health benefit plan coverage of the eligible employee.~~

~~(3) The amount of an eligible employee's premium subsidy shall be determined by applying the sliding scale subsidy schedule developed for subsidized basic health plan enrollees under RCW 70.47.060 to the employee's premium obligation for his or her employer's health benefit plan.~~

~~(4) After an eligible individual has enrolled in the program, the program shall issue subsidies in an amount determined pursuant to subsection (3) of this section to either the eligible employee or to the carrier designated by the eligible employee.~~

~~(5) An eligible employee must agree to provide verification of continued enrollment in his or her small employer's health benefit plan on a semiannual basis or to notify the administrator whenever his or her enrollment status changes, whichever is earlier. Verification or notification may be made directly by the employee, or through his or her employer or the carrier providing the small employer health benefit plan. When necessary, the administrator has the authority to perform retrospective audits on premium subsidy accounts. The administrator may suspend or terminate an employee's participation in the program and seek repayment of any subsidy~~

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~~amounts paid due to the omission or misrepresentation of an applicant or enrolled employee. The administrator shall adopt rules to define the appropriate application of these sanctions and the processes to implement the sanctions provided in this subsection, within available resources.))~~

Sec. 64. RCW 48.21.045 and 2004 c 244 s 1 are each amended to read as follows:

(1)(a) An insurer offering any health benefit plan to a small employer, either directly or through an association or member-governed group formed specifically for the purpose of purchasing health care, may offer and actively market to the small employer a health benefit plan featuring a limited schedule of covered health care services. Nothing in this subsection shall preclude an insurer from offering, or a small employer from purchasing, other health benefit plans that may have more comprehensive benefits than those included in the product offered under this subsection. An insurer offering a health benefit plan under this subsection shall clearly disclose all covered benefits to the small employer in a brochure filed with the commissioner.

(b) A health benefit plan offered under this subsection shall provide coverage for hospital expenses and services rendered by a physician licensed under chapter 18.57 or 18.71 RCW but is not subject to the requirements of RCW 48.21.130, 48.21.140, 48.21.141, 48.21.142, 48.21.144, 48.21.146, 48.21.160 through 48.21.197, 48.21.200, 48.21.220, 48.21.225, 48.21.230, 48.21.235, 48.21.240, 48.21.244, 48.21.250, 48.21.300, 48.21.310, or 48.21.320.

(2) Nothing in this section shall prohibit an insurer from offering, or a purchaser from seeking, health benefit plans with benefits in excess of the health benefit plan offered under subsection (1) of this section. All forms, policies, and contracts shall be submitted for approval to the commissioner, and the rates of any plan offered under this section shall be reasonable in relation to the benefits thereto.

(3) Premium rates for health benefit plans for small employers as defined in this section shall be subject to the following provisions:

(a) The insurer shall develop its rates based on an adjusted community rate and may only vary the adjusted community rate for:

- (i) Geographic area;
- (ii) Family size;
- (iii) Age; and
- (iv) Wellness activities.

(b) The adjustment for age in (a)(iii) of this subsection may not use age brackets smaller than five-year increments, which shall begin with age twenty and end with age sixty-five. Employees under the age of twenty shall be treated as those age twenty.

(c) The insurer shall be permitted to develop separate rates for individuals age sixty-five or older for coverage for which medicare is the primary payer and coverage for which medicare is not the primary payer. Both rates shall be subject to the requirements of this subsection (3).

(d) The permitted rates for any age group shall be no more than four hundred twenty-five percent of the lowest rate for all age groups on January 1, 1996, four hundred percent on January 1, 1997, and three hundred seventy-five percent on January 1, 2000, and thereafter.

(e) A discount for wellness activities shall be permitted to reflect actuarially justified differences in utilization or cost attributed to such programs.

(f) The rate charged for a health benefit plan offered under this section may not be adjusted more frequently than annually except that the premium may be changed to reflect:

- (i) Changes to the enrollment of the small employer;
- (ii) Changes to the family composition of the employee;
- (iii) Changes to the health benefit plan requested by the small employer; or
- (iv) Changes in government requirements affecting the health benefit plan.

(g) Rating factors shall produce premiums for identical groups that differ only by the amounts attributable to plan

design, with the exception of discounts for health improvement programs.

(h) For the purposes of this section, a health benefit plan that contains a restricted network provision shall not be considered similar coverage to a health benefit plan that does not contain such a provision, provided that the restrictions of benefits to network providers result in substantial differences in claims costs. A carrier may develop its rates based on claims costs due to network provider reimbursement schedules or type of network. This subsection does not restrict or enhance the portability of benefits as provided in RCW 48.43.015.

(i) Adjusted community rates established under this section shall pool the medical experience of all small groups purchasing coverage, including the small group participants in the health insurance partnership established in RCW 70.47A.030. However, annual rate adjustments for each small group health benefit plan may vary by up to plus or minus four percentage points from the overall adjustment of a carrier's entire small group pool, such overall adjustment to be approved by the commissioner, upon a showing by the carrier, certified by a member of the American academy of actuaries that: (i) The variation is a result of deductible leverage, benefit design, or provider network characteristics; and (ii) for a rate renewal period, the projected weighted average of all small group benefit plans will have a revenue neutral effect on the carrier's small group pool. Variations of greater than four percentage points are subject to review by the commissioner, and must be approved or denied within sixty days of submittal. A variation that is not denied within sixty days shall be deemed approved. The commissioner must provide to the carrier a detailed actuarial justification for any denial within thirty days of the denial.

(4) Nothing in this section shall restrict the right of employees to collectively bargain for insurance providing benefits in excess of those provided herein.

(5)(a) Except as provided in this subsection, requirements used by an insurer in determining whether to provide coverage to a small employer shall be applied uniformly among all small employers applying for coverage or receiving coverage from the carrier.

(b) An insurer shall not require a minimum participation level greater than:

- (i) One hundred percent of eligible employees working for groups with three or less employees; and
- (ii) Seventy-five percent of eligible employees working for groups with more than three employees.

(c) In applying minimum participation requirements with respect to a small employer, a small employer shall not consider employees or dependents who have similar existing coverage in determining whether the applicable percentage of participation is met.

(d) An insurer may not increase any requirement for minimum employee participation or modify any requirement for minimum employer contribution applicable to a small employer at any time after the small employer has been accepted for coverage.

(6) An insurer must offer coverage to all eligible employees of a small employer and their dependents. An insurer may not offer coverage to only certain individuals or dependents in a small employer group or to only part of the group. An insurer may not modify a health plan with respect to a small employer or any eligible employee or dependent, through riders, endorsements or otherwise, to restrict or exclude coverage or benefits for specific diseases, medical conditions, or services otherwise covered by the plan.

(7) As used in this section, "health benefit plan," "small employer," "adjusted community rate," and "wellness activities" mean the same as defined in RCW 48.43.005.

Sec. 65. RCW 48.44.023 and 2004 c 244 s 7 are each amended to read as follows:

(1)(a) A health care services contractor offering any health benefit plan to a small employer, either directly or through an association or member-governed group formed specifically for the purpose of purchasing health care, may offer and actively market to the small employer a health benefit plan featuring a limited schedule of covered health care services. Nothing in this

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subsection shall preclude a contractor from offering, or a small employer from purchasing, other health benefit plans that may have more comprehensive benefits than those included in the product offered under this subsection. A contractor offering a health benefit plan under this subsection shall clearly disclose all covered benefits to the small employer in a brochure filed with the commissioner.

(b) A health benefit plan offered under this subsection shall provide coverage for hospital expenses and services rendered by a physician licensed under chapter 18.57 or 18.71 RCW but is not subject to the requirements of RCW 48.44.225, 48.44.240, 48.44.245, 48.44.290, 48.44.300, 48.44.310, 48.44.320, 48.44.325, 48.44.330, 48.44.335, 48.44.340, 48.44.344, 48.44.360, 48.44.400, 48.44.440, 48.44.450, and 48.44.460.

(2) Nothing in this section shall prohibit a health care service contractor from offering, or a purchaser from seeking, health benefit plans with benefits in excess of the health benefit plan offered under subsection (1) of this section. All forms, policies, and contracts shall be submitted for approval to the commissioner, and the rates of any plan offered under this section shall be reasonable in relation to the benefits thereto.

(3) Premium rates for health benefit plans for small employers as defined in this section shall be subject to the following provisions:

(a) The contractor shall develop its rates based on an adjusted community rate and may only vary the adjusted community rate for:

- (i) Geographic area;
- (ii) Family size;
- (iii) Age; and
- (iv) Wellness activities.

(b) The adjustment for age in (a)(iii) of this subsection may not use age brackets smaller than five-year increments, which shall begin with age twenty and end with age sixty-five. Employees under the age of twenty shall be treated as those age twenty.

(c) The contractor shall be permitted to develop separate rates for individuals age sixty-five or older for coverage for which medicare is the primary payer and coverage for which medicare is not the primary payer. Both rates shall be subject to the requirements of this subsection (3).

(d) The permitted rates for any age group shall be no more than four hundred twenty-five percent of the lowest rate for all age groups on January 1, 1996, four hundred percent on January 1, 1997, and three hundred seventy-five percent on January 1, 2000, and thereafter.

(e) A discount for wellness activities shall be permitted to reflect actuarially justified differences in utilization or cost attributed to such programs.

(f) The rate charged for a health benefit plan offered under this section may not be adjusted more frequently than annually except that the premium may be changed to reflect:

- (i) Changes to the enrollment of the small employer;
- (ii) Changes to the family composition of the employee;
- (iii) Changes to the health benefit plan requested by the small employer; or
- (iv) Changes in government requirements affecting the health benefit plan.

(g) Rating factors shall produce premiums for identical groups that differ only by the amounts attributable to plan design, with the exception of discounts for health improvement programs.

(h) For the purposes of this section, a health benefit plan that contains a restricted network provision shall not be considered similar coverage to a health benefit plan that does not contain such a provision, provided that the restrictions of benefits to network providers result in substantial differences in claims costs. A carrier may develop its rates based on claims costs due to network provider reimbursement schedules or type of network. This subsection does not restrict or enhance the portability of benefits as provided in RCW 48.43.015.

(i) Adjusted community rates established under this section shall pool the medical experience of all groups purchasing coverage, including the small group participants in the health insurance partnership established in RCW 70.47A.030.

However, annual rate adjustments for each small group health benefit plan may vary by up to plus or minus four percentage points from the overall adjustment of a carrier's entire small group pool, such overall adjustment to be approved by the commissioner, upon a showing by the carrier, certified by a member of the American academy of actuaries that: (i) The variation is a result of deductible leverage, benefit design, or provider network characteristics; and (ii) for a rate renewal period, the projected weighted average of all small group benefit plans will have a revenue neutral effect on the carrier's small group pool. Variations of greater than four percentage points are subject to review by the commissioner, and must be approved or denied within sixty days of submittal. A variation that is not denied within sixty days shall be deemed approved. The commissioner must provide to the carrier a detailed actuarial justification for any denial within thirty days of the denial.

(4) Nothing in this section shall restrict the right of employees to collectively bargain for insurance providing benefits in excess of those provided herein.

(5)(a) Except as provided in this subsection, requirements used by a contractor in determining whether to provide coverage to a small employer shall be applied uniformly among all small employers applying for coverage or receiving coverage from the carrier.

(b) A contractor shall not require a minimum participation level greater than:

- (i) One hundred percent of eligible employees working for groups with three or less employees; and
- (ii) Seventy-five percent of eligible employees working for groups with more than three employees.

(c) In applying minimum participation requirements with respect to a small employer, a small employer shall not consider employees or dependents who have similar existing coverage in determining whether the applicable percentage of participation is met.

(d) A contractor may not increase any requirement for minimum employee participation or modify any requirement for minimum employer contribution applicable to a small employer at any time after the small employer has been accepted for coverage.

(6) A contractor must offer coverage to all eligible employees of a small employer and their dependents. A contractor may not offer coverage to only certain individuals or dependents in a small employer group or to only part of the group. A contractor may not modify a health plan with respect to a small employer or any eligible employee or dependent, through riders, endorsements or otherwise, to restrict or exclude coverage or benefits for specific diseases, medical conditions, or services otherwise covered by the plan.

Sec. 66. RCW 48.46.066 and 2004 c 244 s 9 are each amended to read as follows:

(1)(a) A health maintenance organization offering any health benefit plan to a small employer, either directly or through an association or member-governed group formed specifically for the purpose of purchasing health care, may offer and actively market to the small employer a health benefit plan featuring a limited schedule of covered health care services. Nothing in this subsection shall preclude a health maintenance organization from offering, or a small employer from purchasing, other health benefit plans that may have more comprehensive benefits than those included in the product offered under this subsection. A health maintenance organization offering a health benefit plan under this subsection shall clearly disclose all the covered benefits to the small employer in a brochure filed with the commissioner.

(b) A health benefit plan offered under this subsection shall provide coverage for hospital expenses and services rendered by a physician licensed under chapter 18.57 or 18.71 RCW but is not subject to the requirements of RCW 48.46.275, 48.46.280, 48.46.285, 48.46.290, 48.46.350, 48.46.355, 48.46.375, 48.46.440, 48.46.480, 48.46.510, 48.46.520, and 48.46.530.

(2) Nothing in this section shall prohibit a health maintenance organization from offering, or a purchaser from seeking, health benefit plans with benefits in excess of the health benefit plan offered under subsection (1) of this section. All

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forms, policies, and contracts shall be submitted for approval to the commissioner, and the rates of any plan offered under this section shall be reasonable in relation to the benefits thereto.

(3) Premium rates for health benefit plans for small employers as defined in this section shall be subject to the following provisions:

(a) The health maintenance organization shall develop its rates based on an adjusted community rate and may only vary the adjusted community rate for:

- (i) Geographic area;
- (ii) Family size;
- (iii) Age; and
- (iv) Wellness activities.

(b) The adjustment for age in (a)(iii) of this subsection may not use age brackets smaller than five-year increments, which shall begin with age twenty and end with age sixty-five. Employees under the age of twenty shall be treated as those age twenty.

(c) The health maintenance organization shall be permitted to develop separate rates for individuals age sixty-five or older for coverage for which medicare is the primary payer and coverage for which medicare is not the primary payer. Both rates shall be subject to the requirements of this subsection (3).

(d) The permitted rates for any age group shall be no more than four hundred twenty-five percent of the lowest rate for all age groups on January 1, 1996, four hundred percent on January 1, 1997, and three hundred seventy-five percent on January 1, 2000, and thereafter.

(e) A discount for wellness activities shall be permitted to reflect actuarially justified differences in utilization or cost attributed to such programs.

(f) The rate charged for a health benefit plan offered under this section may not be adjusted more frequently than annually except that the premium may be changed to reflect:

- (i) Changes to the enrollment of the small employer;
- (ii) Changes to the family composition of the employee;
- (iii) Changes to the health benefit plan requested by the small employer; or
- (iv) Changes in government requirements affecting the health benefit plan.

(g) Rating factors shall produce premiums for identical groups that differ only by the amounts attributable to plan design, with the exception of discounts for health improvement programs.

(h) For the purposes of this section, a health benefit plan that contains a restricted network provision shall not be considered similar coverage to a health benefit plan that does not contain such a provision, provided that the restrictions of benefits to network providers result in substantial differences in claims costs. A carrier may develop its rates based on claims costs due to network provider reimbursement schedules or type of network. This subsection does not restrict or enhance the portability of benefits as provided in RCW 48.43.015.

(i) Adjusted community rates established under this section shall pool the medical experience of all groups purchasing coverage, including the small group participants in the health insurance partnership established in RCW 70.47A.030. However, annual rate adjustments for each small group health benefit plan may vary by up to plus or minus four percentage points from the overall adjustment of a carrier's entire small group pool, such overall adjustment to be approved by the commissioner, upon a showing by the carrier, certified by a member of the American academy of actuaries that: (i) The variation is a result of deductible leverage, benefit design, or provider network characteristics; and (ii) for a rate renewal period, the projected weighted average of all small group benefit plans will have a revenue neutral effect on the carrier's small group pool. Variations of greater than four percentage points are subject to review by the commissioner, and must be approved or denied within sixty days of submittal. A variation that is not denied within sixty days shall be deemed approved. The commissioner must provide to the carrier a detailed actuarial justification for any denial within thirty days of the denial.

(4) Nothing in this section shall restrict the right of employees to collectively bargain for insurance providing benefits in excess of those provided herein.

(5)(a) Except as provided in this subsection, requirements used by a health maintenance organization in determining whether to provide coverage to a small employer shall be applied uniformly among all small employers applying for coverage or receiving coverage from the carrier.

(b) A health maintenance organization shall not require a minimum participation level greater than:

- (i) One hundred percent of eligible employees working for groups with three or less employees; and
- (ii) Seventy-five percent of eligible employees working for groups with more than three employees.

(c) In applying minimum participation requirements with respect to a small employer, a small employer shall not consider employees or dependents who have similar existing coverage in determining whether the applicable percentage of participation is met.

(d) A health maintenance organization may not increase any requirement for minimum employee participation or modify any requirement for minimum employer contribution applicable to a small employer at any time after the small employer has been accepted for coverage.

(6) A health maintenance organization must offer coverage to all eligible employees of a small employer and their dependents. A health maintenance organization may not offer coverage to only certain individuals or dependents in a small employer group or to only part of the group. A health maintenance organization may not modify a health plan with respect to a small employer or any eligible employee or dependent, through riders, endorsements or otherwise, to restrict or exclude coverage or benefits for specific diseases, medical conditions, or services otherwise covered by the plan.

NEW SECTION. Sec. 67. On or before December 1, 2008, the health insurance partnership board shall submit a report to the governor and the legislature that includes an implementation plan to incorporate the individual and small group health insurance markets into the partnership program. In preparing the report, the board shall examine at least the following issues:

(1) The impact of these markets being incorporated into the partnership, with respect to the utilization of services and cost of health plans offered through the partnership;

(2) The impact of applying small group health benefit plan regulations on access to health services and the cost of coverage for these markets; and

(3) How the composition of the board should be modified to reflect the incorporation of the individual and small group markets in the partnership.

NEW SECTION. Sec. 68. On or before December 1, 2009, the health insurance partnership board shall submit a report and recommendations to the governor and the legislature regarding:

(1) The risks and benefits of additional markets participating in the partnership:

(a) The report shall examine the following markets:

(i) Washington state health insurance pool under chapter 48.41 RCW;

(ii) Basic health plan under chapter 70.47 RCW;

(iii) Public employees' benefits board enrollees under chapter 41.05 RCW; and

(iv) Public school employees; and

(b) The report shall examine at least the following issues:

(i) The impact of these markets participating in the partnership, with respect to the utilization of services and cost of health plans offered through the partnership;

(ii) Whether any distinction should be made in participation between active and retired employees enrolled in public employees' benefits board plans, giving consideration to the implicit subsidy that nonmedicare-eligible retirees currently benefit from by being pooled with active employees, and how medicare-eligible retirees would be affected;

(iii) The impact of applying small group health benefit plan regulations on access to health services and the cost of coverage for these markets; and

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(iv) If the board recommends the inclusion of additional markets, how the composition of the board should be modified to reflect the participation of these markets; and

(2) The risks and benefits of establishing a requirement that residents of the state of Washington age eighteen and over obtain and maintain affordable creditable coverage, as defined in the federal health insurance portability and accountability act of 1996 (42 U.S.C. Sec. 300gg(c)). The report shall address the question of how a requirement that residents maintain coverage could be enforced in the state of Washington.

Sec. 69. RCW 70.47A.050 and 2006 c 255 s 5 are each amended to read as follows:

Enrollment in the ((small-employer)) health insurance partnership ((program)) is not an entitlement and shall not result in expenditures that exceed the amount that has been appropriated for the program in the operating budget. If it appears that continued enrollment will result in expenditures exceeding the appropriated level for a particular fiscal year, the administrator may freeze new enrollment in the program and establish a waiting list of eligible employees who shall receive subsidies only when sufficient funds are available.

Sec. 70. RCW 70.47A.060 and 2006 c 255 s 6 are each amended to read as follows:

The administrator shall adopt all rules necessary for the implementation and operation of the ((small-employer)) health insurance partnership ((program)). As part of the rule development process, the administrator shall consult with small employers, carriers, employee organizations, and the office of the insurance commissioner under Title 48 RCW to determine an effective and efficient method for the payment of subsidies under this chapter. All rules shall be adopted in accordance with chapter 34.05 RCW.

Sec. 71. RCW 70.47A.080 and 2006 c 255 s 8 are each amended to read as follows:

The ((small-employer)) health insurance partnership ((program)) account is hereby established in the custody of the state treasurer. Any nongeneral fund--state funds collected for the ((small-employer)) health insurance partnership ((program)) shall be deposited in the ((small-employer)) health insurance partnership ((program)) account. Moneys in the account shall be used exclusively for the purposes of administering the ((small employer)) health insurance partnership ((program)), including payments to ((participating managed health care systems)) insurance carriers on behalf of ((small-employer)) health insurance partnership enrollees. Only the administrator of the health care authority or his or her designee may authorize expenditures from the account. The account is subject to allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures.

NEW SECTION. Sec. 72. (1) The office of the insurance commissioner shall contract for an independent study of health benefit mandates, rating requirements, and insurance statutes and rules to determine the impact on premiums and individuals' health if those statutes or rules were amended or repealed.

(2) The office of the insurance commissioner shall submit an interim report to the governor and appropriate committees of the legislature by December 1, 2007, and a final report by December 1, 2008.

PUBLIC HEALTH

NEW SECTION. Sec. 73. A new section is added to chapter 43.70 RCW to read as follows:

(1) Protecting the public's health across the state is a fundamental responsibility of the state. With any new state funding of the public health system as provided in section 74 of this act, the state expects that measurable benefits will be realized to the health of the residents of Washington. A transparent process that shows the impact of increased public health spending on performance measures related to the health outcomes in subsection (2) of this section is of great value to the state and its residents. In addition, a well-funded public health system is expected to become a more integral part of the state's emergency preparedness system.

(2) Distributions from the local public health financing account in section 74 of this act shall deliver the following outcomes, subject to the availability of amounts appropriated to the account for this specific purpose:

(a) Create a disease response system capable of responding at all times;

(b) Stop the increase in, and reduce, sexually transmitted disease rates;

(c) Reduce vaccine preventable diseases;

(d) Build capacity to quickly contain disease outbreaks;

(e) Decrease childhood and adult obesity and types I and II diabetes rates, and resulting kidney failure and dialysis;

(f) Increase childhood immunization rates;

(g) Improve birth outcomes and decrease child abuse;

(h) Reduce animal-to-human disease rates; and

(i) Monitor and protect drinking water across jurisdictional boundaries.

(3) Benchmarks for these outcomes shall be drawn from the national healthy people 2010 goals, other reliable data sets, and any subsequent national goals.

NEW SECTION. Sec. 74. A new section is added to chapter 43.70 RCW to read as follows:

(1) The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.

(a) "Base year funding" means the 2007 budgeted amount of local funding for public health functions passed through ordinance by each county by December 31, 2006.

(b) "Core public health functions of statewide significance" or "public health functions" means health services that:

(i) Address: Communicable disease prevention and response; preparation for, and response to, public health emergencies caused by pandemic disease, earthquake, flood, or terrorism; prevention and management of chronic diseases and disabilities; promotion of healthy families and the development of children; assessment of local health conditions, risks, and trends, and evaluation of the effectiveness of intervention efforts; and environmental health concerns;

(ii) Promote uniformity in the public health activities conducted by all local health jurisdictions in the public health system, increase the overall strength of the public health system, or apply to broad public health efforts; and

(iii) If left neglected or inadequately addressed, are reasonably likely to have a significant adverse impact on counties beyond the borders of the local health jurisdiction.

(c) "Local funding" means discretionary local resources for public health functions, including amounts from general and special revenue funds, but excluding amounts received from fees and licenses and other user fee types of payments for service. "Local funding" does not include payments received from the state or federal government.

(d) "Local health jurisdiction" or "jurisdiction" means a county board of health organized under chapter 70.05 RCW, a health district organized under chapter 70.46 RCW, or a combined city and county health department organized under chapter 70.08 RCW.

(e) "Population" means the most recent population estimates by the office of financial management for state revenue allocations.

(2) The local public health financing account is created in the state treasury. Expenditures from the account must be used for the purposes specified in subsections (3) and (4) of this section, except for such moneys appropriated to the department of health for the purpose of conducting its responsibilities under sections 75, 76, and 78 of this act.

(3) During the month of January 2008, and during the month of each January thereafter, the state treasurer shall distribute from the local public health financing account any amounts in the account up to a maximum of five million four hundred twenty-five thousand dollars to be shared equally amongst all local health jurisdictions to address core public health functions of statewide significance.

(4) During the month of January 2008, and during the first month of each fiscal quarter thereafter, the state treasurer, in consultation with the department of revenue or the department of health, as necessary, shall distribute money in the local public

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health financing account as provided in this subsection. The distributions under this subsection (4) are subsequent to the distribution under subsection (3) of this section.

Appropriated funds remaining following the distribution of moneys under subsection (3) of this section must be apportioned to local health jurisdictions in the manner provided in this subsection (4). The apportionment factor for each jurisdiction is the population of the jurisdiction's county as a percentage of the statewide population for the prior calendar year. For two or more counties that have jointly created a health district under chapter 70.46 RCW, the combined population of all counties comprising the health district must be used. Money received by a jurisdiction under this subsection (4) must be used to fund core public health functions of statewide significance, and until July 1, 2008, money shall be used to fund only known deficiencies in core public health functions of statewide significance of the jurisdiction.

(5) To receive distributions under subsections (3) and (4) of this section in calendar year 2010 and thereafter, total local funding spent by the jurisdiction on public health functions in the calendar year prior to the previous calendar year must have equaled or exceeded base year funding. The department of health shall notify the state treasurer to discontinue distributions if the jurisdiction does not meet this requirement.

(6) In the event of an extraordinary financial circumstance beyond the control of a county that results in funding for local public health functions being reduced to an amount lower than the base year funding, the county may petition the secretary for a waiver from the local funding requirement in subsection (5) of this section. The secretary, after reviewing the county's petition and determining that the local funding reduction is necessary, may grant the county a waiver from the requirements of subsection (5) of this section. In order for the waiver to continue beyond one calendar year, the county must demonstrate to the secretary that an effort is being made to restore funding to the base year funding level.

(7) The department may adopt rules necessary to administer this section.

NEW SECTION. Sec. 75. A new section is added to chapter 43.70 RCW to read as follows:

(1) The department shall accomplish the tasks included in subsection (2) of this section by utilizing the expertise of varied interests, as provided in this subsection.

(a) In addition to the perspectives of local health jurisdictions, the state board of health, the Washington health foundation, and department staff that are currently engaged in development of the public health services improvement plan under RCW 43.70.520, the secretary shall actively engage:

(i) Individuals or entities with expertise in the development of performance measures, accountability and systems management, such as the University of Washington school of public health and community medicine, and experts in the development of evidence-based medical guidelines or public health practice guidelines; and

(ii) Individuals or entities who will be impacted by performance measures developed under this section and have relevant expertise, such as community clinics, public health nurses, large employers, tribal health providers, family planning providers, and physicians.

(b) In developing the performance measures, consideration shall be given to levels of performance necessary to promote uniformity in core public health functions of statewide significance among all local health jurisdictions, best scientific evidence, national standards of performance, and innovations in public health practice. The performance measures shall be developed to meet the goals and outcomes in section 1 of this act. The office of the state auditor shall provide advice and consultation to the committee to assist in the development of effective performance measures and health status indicators.

(c) On or before November 1, 2007, the experts assembled under this section shall provide recommendations to the secretary related to the activities and services that qualify as core public health functions of statewide significance and performance measures. The secretary shall provide written justification for any departure from the recommendations.

(2) By January 1, 2008, the department shall:

(a) Adopt a prioritized list of activities and services performed by local health jurisdictions that qualify as core public health functions of statewide significance as defined in section 74 of this act; and

(b) Adopt appropriate performance measures with the intent of improving health status indicators applicable to the core public health functions of statewide significance that local health jurisdictions must provide pursuant to section 74 of this act.

(3) The secretary may revise the list of activities and the performance measures in future years as appropriate. Prior to modifying either the list or the performance measures, the secretary must provide a written explanation of the rationale for such changes.

(4) The department and the local health jurisdictions shall abide by the prioritized list of activities and services and the performance measures developed pursuant to this section.

(5) The department, in consultation with representatives of county governments, shall provide local jurisdictions with financial incentives to encourage and increase local investments in core public health functions. The local jurisdictions shall not supplant existing local funding with such state-incented resources.

NEW SECTION. Sec. 76. A new section is added to chapter 43.70 RCW to read as follows:

Beginning November 15, 2009, the department shall report to the legislature and the governor annually on the distribution of funds under section 74 of this act and the use of those funds. The initial report must discuss the performance measures adopted by the secretary and any impact the funding in this act has had on local health jurisdiction performance and health status indicators. Future reports shall evaluate trends in performance over time and the effects of expenditures on performance over time.

Sec. 77. RCW 43.70.520 and 1993 c 492 s 467 are each amended to read as follows:

(1) The legislature finds that the public health functions of community assessment, policy development, and assurance of service delivery are essential elements in achieving the objectives of health reform in Washington state. The legislature further finds that the population-based services provided by state and local health departments are cost-effective and are a critical strategy for the long-term containment of health care costs. The legislature further finds that the public health system in the state lacks the capacity to fulfill these functions consistent with the needs of a reformed health care system. The legislature further finds that public health nurses and nursing services are an essential part of our public health system, delivering evidence-based care and providing core services including prevention of illness, injury, or disability; the promotion of health; and maintenance of the health of populations.

(2) The department of health shall develop, in consultation with local health departments and districts, the state board of health, the health services commission, area Indian health service, and other state agencies, health services providers, and citizens concerned about public health, a public health services improvement plan. The plan shall provide a detailed accounting of deficits in the core functions of assessment, policy development, assurance of the current public health system, how additional public health funding would be used, and describe the benefits expected from expanded expenditures.

(3) The plan shall include:

(a) Definition of minimum standards for public health protection through assessment, policy development, and assurances:

(i) Enumeration of communities not meeting those standards;

(ii) A budget and staffing plan for bringing all communities up to minimum standards;

(iii) An analysis of the costs and benefits expected from adopting minimum public health standards for assessment, policy development, and assurances;

(b) Recommended strategies and a schedule for improving public health programs throughout the state, including:

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(i) Strategies for transferring personal health care services from the public health system, into the uniform benefits package where feasible; and

(ii) ~~((Timing of increased funding for public health services linked to specific objectives for improving public health))~~
Linking funding for public health services to performance measures that relate to achieving improved health outcomes; and

(c) A recommended level of dedicated funding for public health services to be expressed in terms of a percentage of total health service expenditures in the state or a set per person amount; such recommendation shall also include methods to ensure that such funding does not supplant existing federal, state, and local funds received by local health departments, and methods of distributing funds among local health departments.

(4) The department shall coordinate this planning process with the study activities required in section 258, chapter 492, Laws of 1993.

(5) By March 1, 1994, the department shall provide initial recommendations of the public health services improvement plan to the legislature regarding minimum public health standards, and public health programs needed to address urgent needs, such as those cited in subsection (7) of this section.

(6) By December 1, 1994, the department shall present the public health services improvement plan to the legislature, with specific recommendations for each element of the plan to be implemented over the period from 1995 through 1997.

(7) Thereafter, the department shall update the public health services improvement plan for presentation to the legislature prior to the beginning of a new biennium.

(8) Among the specific population-based public health activities to be considered in the public health services improvement plan are: Health data assessment and chronic and infectious disease surveillance; rapid response to outbreaks of communicable disease; efforts to prevent and control specific communicable diseases, such as tuberculosis and acquired immune deficiency syndrome; health education to promote healthy behaviors and to reduce the prevalence of chronic disease, such as those linked to the use of tobacco; access to primary care in coordination with existing community and migrant health clinics and other not for profit health care organizations; programs to ensure children are born as healthy as possible and they receive immunizations and adequate nutrition; efforts to prevent intentional and unintentional injury; programs to ensure the safety of drinking water and food supplies; poison control; trauma services; and other activities that have the potential to improve the health of the population or special populations and reduce the need for or cost of health services.

NEW SECTION. Sec. 78. A new section is added to chapter 43.70 RCW to read as follows:

(1) Each local health jurisdiction shall submit to the secretary such data as the secretary determines is necessary to allow the secretary to assess whether the local health jurisdiction has used the funds in a manner consistent with achieving the performance measures in section 75 of this act.

(2) If the secretary determines that the data submitted demonstrates that the local health jurisdiction is not spending the funds in a manner consistent with achieving the performance measures, the secretary shall:

(a) Provide a report to the governor identifying the local health jurisdiction and the specific items that the secretary identified as inconsistent with achieving the performance measures; and

(b) Require that the local health jurisdiction submit a plan of correction to the secretary within sixty days of receiving notice from the secretary, which explains the measures that the jurisdiction will take to resume spending funds in a manner consistent with achieving the performance measures. The secretary shall provide technical assistance to the local health jurisdiction to support the jurisdiction in successfully completing the activities included in the plan of correction.

(3) Upon a determination by the secretary that a local health jurisdiction that had previously been identified as not spending the funds in a manner consistent with achieving the performance

measures has resumed consistency, the secretary shall notify the governor that the jurisdiction has returned to consistent status.

(4) Any local health jurisdiction that has not resumed spending funds in a manner consistent with achieving the performance measures within one year of the secretary reporting the jurisdiction to the governor shall be precluded from receiving any funds from the local public health financing account established in section 74 of this act. Funds may resume once the local health jurisdiction has demonstrated to the satisfaction of the secretary that it has returned to consistent status. The secretary shall inform the state treasurer of any determinations by the secretary regarding the eligibility status of a local health jurisdiction to receive funds from the local public health financing account.

Sec. 79. RCW 70.48.130 and 1993 c 409 s 1 are each amended to read as follows:

It is the intent of the legislature that all jail inmates receive appropriate and cost-effective emergency and necessary medical care. Governing units, the department of social and health services, and medical care providers shall cooperate to achieve the best rates consistent with adequate care.

Payment for emergency or necessary health care shall be by the governing unit, except that the department of social and health services shall directly reimburse the provider pursuant to chapter 74.09 RCW, in accordance with the rates and benefits established by the department, if the confined person is eligible under the department's medical care programs as authorized under chapter 74.09 RCW. After payment by the department, the financial responsibility for any remaining balance, including unpaid client liabilities that are a condition of eligibility or participation under chapter 74.09 RCW, shall be borne by the medical care provider and the governing unit as may be mutually agreed upon between the medical care provider and the governing unit. In the absence of mutual agreement between the medical care provider and the governing unit, the financial responsibility for any remaining balance shall be borne equally between the medical care provider and the governing unit. Total payments from all sources to providers for care rendered to confined persons eligible under chapter 74.09 RCW shall not exceed the amounts that would be paid by the department for similar services provided under Title XIX Medicaid, unless additional resources are obtained from the confined person.

As part of the screening process upon booking or preparation of an inmate into jail, general information concerning the inmate's ability to pay for medical care shall be identified, including insurance or other medical benefits or resources to which an inmate is entitled. This information shall be made available to the department, the governing unit, and any provider of health care services.

The governing unit or provider may obtain reimbursement from the confined person for the cost of health care services not provided under chapter 74.09 RCW, including reimbursement from any insurance program or from other medical benefit programs available to the confined person. Nothing in this chapter precludes civil or criminal remedies to recover the costs of medical care provided jail inmates or paid for on behalf of inmates by the governing unit. As part of a judgment and sentence, the courts are authorized to order defendants to repay all or part of the medical costs incurred by the governing unit or provider during confinement.

To the extent that a confined person is unable to be financially responsible for medical care and is ineligible for the department's medical care programs under chapter 74.09 RCW, or for coverage from private sources, and in the absence of an interlocal agreement or other contracts to the contrary, the governing unit may obtain reimbursement for the cost of such medical services from the unit of government (~~whose law enforcement officers~~) that initiated the charges on which the person is being held in the jail: PROVIDED, That reimbursement for the cost of such services shall be by the state for state prisoners being held in a jail who are accused of either escaping from a state facility or of committing an offense in a state facility. If a confined person is unable to be financially responsible for medical care and is ineligible for the department's medical care programs under chapter 74.09 RCW,

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the rate charged for any medical care provided by a health care provider shall not exceed one hundred sixty percent of the medicaid rates for such service.

There shall be no right of reimbursement to the governing unit from units of government (~~whose law enforcement officers~~) that initiated the charges for which a person is being held in the jail for care provided after the charges are disposed of by sentencing or otherwise, unless by intergovernmental agreement pursuant to chapter 39.34 RCW.

Under no circumstance shall necessary medical services be denied or delayed because of disputes over the cost of medical care or a determination of financial responsibility for payment of the costs of medical care provided to confined persons.

Nothing in this section shall limit any existing right of any party, governing unit, or unit of government against the person receiving the care for the cost of the care provided.

NEW SECTION. Sec. 80. The following acts or parts of acts are each repealed:

(1) RCW 70.38.919 (Effective date--State health plan--1989 1st ex.s. c 9) and 1989 1st ex.s. c 9 s 610; and

(2) 2006 c 255 s 10 (uncodified).

NEW SECTION. Sec. 81. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. Sec. 82. Sections 42 through 48 of this act constitute a new chapter in Title 70 RCW.

NEW SECTION. Sec. 83. Sections 50 through 54 of this act constitute a new chapter in Title 43 RCW.

NEW SECTION. Sec. 84. Subheadings used in this act are not any part of the law.

NEW SECTION. Sec. 85. Sections 18 through 22 of this act take effect January 1, 2009.

NEW SECTION. Sec. 86. If specific funding for the purposes of the following sections of this act, referencing the section of this act by bill or chapter number and section number, is not provided by June 30, 2007, in the omnibus appropriations act, the section is null and void:

(1) Section 9 of this act (Washington state quality forum);

(2) Section 10 of this act (health records banking pilot project);

(3) Section 14 of this act;

(4) Section 40 of this act (state employee health program);

(5) Section 41 of this act (state employee health demonstration project);

(6) Sections 50 through 57 of this act;

(7) Section 62 of this act (health insurance partnership board);

(8) Section 72 of this act (office of insurance commissioner independent study).

NEW SECTION. Sec. 87. Sections 58 through 63 of this act are necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and take effect July 1, 2007.

NEW SECTION. Sec. 88. Section 79 of this act expires June 30, 2009."

Correct the title.

and the same are herewith transmitted.

RICHARD NAFZIGER, Chief Clerk

MOTION

Senator Keiser moved that the Senate refuse to concur in the House amendment(s) to Engrossed Second Substitute Senate Bill No. 5930 and ask the House to recede therefrom.

Senators Keiser spoke in favor of the motion.

The President declared the question before the Senate to be motion by Senator Keiser that the Senate refuse to concur in the House amendment(s) to Engrossed Second Substitute Senate Bill No. 5930 and ask the House to recede therefrom.

The motion by Senator Keiser carried and the Senate refused to concur in the House amendment(s) to Engrossed Second Substitute Senate Bill No. 5930 and asked the House to recede therefrom.

MESSAGE FROM THE HOUSE

April 4, 2007

MR. PRESIDENT:

The House has passed ENGROSSED SUBSTITUTE SENATE BILL NO. 6032, with the following amendment: 6032-S.E AMH ENGR H3219.E

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. The legislature intends to clarify the law on medical marijuana so that the lawful use of this substance is not impaired and medical practitioners are able to exercise their best professional judgment in the delivery of medical treatment, qualifying patients may fully participate in the medical use of marijuana, and designated providers may assist patients in the manner provided by this act without fear of state criminal prosecution. This act is also intended to provide clarification to law enforcement and to all participants in the judicial system.

Sec. 2. RCW 69.51A.005 and 1999 c 2 s 2 are each amended to read as follows:

The people of Washington state find that some patients with terminal or debilitating illnesses, under their physician's care, may benefit from the medical use of marijuana. Some of the illnesses for which marijuana appears to be beneficial include chemotherapy-related nausea and vomiting in cancer patients; AIDS wasting syndrome; severe muscle spasms associated with multiple sclerosis and other spasticity disorders; epilepsy; acute or chronic glaucoma; and some forms of intractable pain.

The people find that humanitarian compassion necessitates that the decision to authorize the medical use of marijuana by patients with terminal or debilitating illnesses is a personal, individual decision, based upon their physician's professional medical judgment and discretion.

Therefore, the people of the state of Washington intend that:

Qualifying patients with terminal or debilitating illnesses who, in the judgment of their physicians, ~~(would)~~ may benefit from the medical use of marijuana, shall not be found guilty of a crime under state law for their possession and limited use of marijuana;

Persons who act as ~~((primary caregivers))~~ designated providers to such patients shall also not be found guilty of a crime under state law for assisting with the medical use of marijuana; and

Physicians also be excepted from liability and prosecution for the authorization of marijuana use to qualifying patients for whom, in the physician's professional judgment, medical marijuana may prove beneficial.

Sec. 3. RCW 69.51A.010 and 1999 c 2 s 6 are each amended to read as follows:

The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Designated provider" means a person who:

(a) Is eighteen years of age or older;

(b) Has been designated in writing by a patient to serve as a designated provider under this chapter;

(c) Is prohibited from consuming marijuana obtained for the personal, medical use of the patient for whom the individual is acting as designated provider; and

(d) Is the designated provider to only one patient at any one time.

(2) "Medical use of marijuana" means the production, possession, or administration of marijuana, as defined in RCW 69.50.101(q), for the exclusive benefit of a qualifying patient in the treatment of his or her terminal or debilitating illness.

((2) "Primary caregiver" means a person who:

(a) Is eighteen years of age or older;

(b) Is responsible for the housing, health, or care of the patient;

(c) Has been designated in writing by a patient to perform the duties of primary caregiver under this chapter.))

(3) "Qualifying patient" means a person who:

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(a) Is a patient of a physician licensed under chapter 18.71 or 18.57 RCW;

(b) Has been diagnosed by that physician as having a terminal or debilitating medical condition;

(c) Is a resident of the state of Washington at the time of such diagnosis;

(d) Has been advised by that physician about the risks and benefits of the medical use of marijuana; and

(e) Has been advised by that physician that they may benefit from the medical use of marijuana.

(4) "Terminal or debilitating medical condition" means:

(a) Cancer, human immunodeficiency virus (HIV), multiple sclerosis, epilepsy or other seizure disorder, or spasticity disorders; or

(b) Intractable pain, limited for the purpose of this chapter to mean pain unrelieved by standard medical treatments and medications; or

(c) Glaucoma, either acute or chronic, limited for the purpose of this chapter to mean increased intraocular pressure unrelieved by standard treatments and medications; or

(d) Crohn's disease with debilitating symptoms unrelieved by standard treatments or medications; or

(e) Hepatitis C with debilitating nausea or intractable pain unrelieved by standard treatments or medications; or

(f) Diseases, including anorexia, which result in nausea, vomiting, wasting, appetite loss, cramping, seizures, muscle spasms, or spasticity, when these symptoms are unrelieved by standard treatments or medications; or

(g) Any other medical condition duly approved by the Washington state medical quality assurance ((~~board~~ ~~commission~~)) commission in consultation with the board of osteopathic medicine and surgery as directed in this chapter.

(5) "Valid documentation" means:

(a) A statement signed by a qualifying patient's physician, or a copy of the qualifying patient's pertinent medical records, which states that, in the physician's professional opinion, the ((potential benefits of the medical use of marijuana would likely outweigh the health risks for a particular qualifying)) patient may benefit from the medical use of marijuana; ((and))

(b) Proof of identity such as a Washington state driver's license or identicaid, as defined in RCW 46.20.035; and

(c) A copy of the physician statement described in (a) of this subsection shall have the same force and effect as the signed original.

Sec. 4. RCW 69.51A.030 and 1999 c 2 s 4 are each amended to read as follows:

A physician licensed under chapter 18.71 or 18.57 RCW shall be excepted from the state's criminal laws and shall not be penalized in any manner, or denied any right or privilege, for:

(1) Advising a qualifying patient about the risks and benefits of medical use of marijuana or that the qualifying patient may benefit from the medical use of marijuana where such use is within a professional standard of care or in the individual physician's medical judgment; or

(2) Providing a qualifying patient with valid documentation, based upon the physician's assessment of the qualifying patient's medical history and current medical condition, that the ((potential benefits of the)) medical use of marijuana ((would likely outweigh the health risks for the)) may benefit a particular qualifying patient.

Sec. 5. RCW 69.51A.040 and 1999 c 2 s 5 are each amended to read as follows:

(1) If a law enforcement officer determines that marijuana is being possessed lawfully under the medical marijuana law, the officer may document the amount of marijuana, take a representative sample that is large enough to test, but not seize the marijuana. A law enforcement officer or agency shall not be held civilly liable for failure to seize marijuana in this circumstance.

(2) If charged with a violation of state law relating to marijuana, any qualifying patient who is engaged in the medical use of marijuana, or any designated ((primary caregiver)) provider who assists a qualifying patient in the medical use of marijuana, will be deemed to have established an affirmative defense to such charges by proof of his or her compliance with

the requirements provided in this chapter. Any person meeting the requirements appropriate to his or her status under this chapter shall be considered to have engaged in activities permitted by this chapter and shall not be penalized in any manner, or denied any right or privilege, for such actions.

~~((2) The)) (3) A~~ qualifying patient, if eighteen years of age or older, or a designated provider shall:

(a) Meet all criteria for status as a qualifying patient or designated provider;

(b) Possess no more marijuana than is necessary for the patient's personal, medical use, not exceeding the amount necessary for a sixty-day supply; and

(c) Present his or her valid documentation to any law enforcement official who questions the patient or provider regarding his or her medical use of marijuana.

~~((3) The)) (4) A~~ qualifying patient, if under eighteen years of age at the time he or she is alleged to have committed the offense, shall ~~((comply))~~ demonstrate compliance with subsection ~~((2))~~ (3)(a) and (c) of this section. However, any possession under subsection ~~((2))~~ (3)(b) of this section, as well as any production, acquisition, and decision as to dosage and frequency of use, shall be the responsibility of the parent or legal guardian of the qualifying patient.

~~((4) The designated primary caregiver shall:~~

~~— (a) Meet all criteria for status as a primary caregiver to a qualifying patient;~~

~~— (b) Possess, in combination with and as an agent for the qualifying patient, no more marijuana than is necessary for the patient's personal, medical use, not exceeding the amount necessary for a sixty-day supply;~~

~~— (c) Present a copy of the qualifying patient's valid documentation required by this chapter, as well as evidence of designation to act as primary caregiver by the patient, to any law enforcement official requesting such information;~~

~~— (d) Be prohibited from consuming marijuana obtained for the personal, medical use of the patient for whom the individual is acting as primary caregiver; and~~

~~— (e) Be the primary caregiver to only one patient at any one time.)~~

Sec. 6. RCW 69.51A.060 and 1999 c 2 s 8 are each amended to read as follows:

(1) It shall be a misdemeanor to use or display medical marijuana in a manner or place which is open to the view of the general public.

(2) Nothing in this chapter requires any health insurance provider to be liable for any claim for reimbursement for the medical use of marijuana.

(3) Nothing in this chapter requires any physician to authorize the use of medical marijuana for a patient.

(4) Nothing in this chapter requires any accommodation of any on-site medical use of marijuana in any place of employment, in any school bus or on any school grounds, ((or)) in any youth center, or in any correctional facility.

(5) It is a class C felony to fraudulently produce any record purporting to be, or tamper with the content of any record for the purpose of having it accepted as, valid documentation under RCW 69.51A.010~~((5))~~ (6)(a).

(6) No person shall be entitled to claim the affirmative defense provided in RCW 69.51A.040 for engaging in the medical use of marijuana in a way that endangers the health or well-being of any person through the use of a motorized vehicle on a street, road, or highway.

Sec. 7. RCW 69.51A.070 and 1999 c 2 s 9 are each amended to read as follows:

The Washington state medical quality assurance ((~~board~~ ~~commission~~)) commission in consultation with the board of osteopathic medicine and surgery, or other appropriate agency as designated by the governor, shall accept for consideration petitions submitted ((~~by physicians or patients~~)) to add terminal or debilitating conditions to those included in this chapter. In considering such petitions, the Washington state medical quality assurance ((~~board~~ ~~commission~~)) commission in consultation with the board of osteopathic medicine and surgery shall include public notice of, and an opportunity to comment in a public hearing upon, such petitions. The Washington state medical

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quality assurance (~~board [commission]~~) commission in consultation with the board of osteopathic medicine and surgery shall, after hearing, approve or deny such petitions within one hundred eighty days of submission. The approval or denial of such a petition shall be considered a final agency action, subject to judicial review.

NEW SECTION. Sec. 8. A new section is added to chapter 69.51A RCW to read as follows:

(1) By July 1, 2008, the department of health shall adopt rules defining the quantity of marijuana that could reasonably be presumed to be a sixty-day supply for any qualifying patient; this presumption may be overcome with evidence of the qualifying patient's necessary medical use.

(2) As used in this chapter, "sixty-day supply" means that amount of marijuana that qualifying patients would reasonably be expected to need over a period of sixty days for their personal medical use.

(3) The department of health shall gather information from medical and scientific literature, consulting with experts and the public, and reviewing the best practices of other states regarding access to an adequate, safe, consistent, and secure source of medical marijuana for qualifying patients. The report shall evaluate the feasibility of proposals to establish government-operated distribution systems for supplying qualifying patients with medical marijuana from potential sources such as marijuana confiscated by law enforcement agencies or produced by certified production facilities, including ways to address any concerns related to production, safety, or legal requirements. The department shall report its findings to the legislature by July 1, 2008."

Correct the title.
and the same are herewith transmitted.

RICHARD NAFZIGER, Chief Clerk

MOTION

Senator Kohl-Welles moved that the Senate refuse to concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 6032 and request of the House a conference thereon.

The President declared the question before the Senate to be motion by Senator Kohl-Welles that the Senate refuse to concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 6032 and request of the House for a conference thereon.

The motion by Senator Kohl-Welles carried and the Senate refused to concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 6032 and requested of the House a conference thereon.

APPOINTMENT OF CONFERENCE COMMITTEE

The President appointed as members of the Conference Committee on Engrossed Substitute Senate Bill No. 6032 and the House amendment(s) thereto: Senators Carrell, Keiser and Kohl-Welles.

MOTION

On motion of Senator Eide, the appointments to the conference committee were confirmed.

MOMENT OF SILENCE

On motion of Senator McAuliffe the Senate observed a moment of silence in memory of thirty-two students of Virginia Polytechnic and State University (Virginia Tech) who lost their lives on April 16, 2007.

PERSONAL PRIVILEGE

Senator Eide: "Mr. President, I would just like to say that your wife makes the very best rum balls that has ever existed. We all in the caucus absolutely loved them."

REMARKS BY THE PRESIDENT

President Owen: "The President would suggest that you get a designated driver."

MOTION

At 5:00 p.m., on motion of Senator Eide, the Senate adjourned until 9:30 a.m. Tuesday, April 17, 2007.

BRAD OWEN, President of the Senate

THOMAS HOEMANN, Secretary of the Senate

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